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The Solicitors' Journal

VOL. LXXIX. **Saturday, October 5, 1935.** No. 40

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Current Topics.

The Law Society at Hastings.

THIS week we conclude our report of The Law Society's Annual Provincial Meeting at Hastings by publishing at p. 731 the full text of the three remaining papers, together with a report of the discussion that followed them. This year's meeting was notable in particular for one improvement upon the usual course of procedure. The papers having, as in recent years, been circulated to members before the meeting, a summary only was given in the Conference Hall instead of their being read throughout as previously. This arrangement enabled the President to allow much more time for the discussion of the papers by those present. Full advantage was taken of this opportunity and a most useful interchange of views on some of the papers resulted. The change of procedure met with general approval, and we feel sure it will be repeated at future provincial meetings.

Execution of Judgments.

IN his paper on the Execution of Judgments, fully reported at p. 716 of last week's issue, Mr. R. W. HURLSTONE HORTIN stressed an aspect of the question of imprisonment for debt which is, perhaps, too easily lost sight of. His experience—and, he suggested, that of many members would be the same—was that hardship in the interpretation of the Debtors Act is non-existent so far as the debtor is concerned, though a creditor frequently suffers hardship. He advocated a repeal of the aforesaid Act "with its foolish anomalies" and the passing of an Act which would enable a judgment creditor to have his debtor visited with the most appropriate penalty if the latter neglected to pay what a competent judge, after weighing the evidence, had ordered. As it is, the debtor is theoretically imprisoned for contempt of court, "a contempt . . . which is so lightly regarded by those affronted, that a judgment creditor is given the sole right to see that it is purged." "The real contempt," Mr. HORTIN continued, "is the contempt to pay the judgment debt and a simple and effective statute can make it so." On the suitability of imprisonment as a punishment for the type of offence under consideration, the speaker urged that it is quite as anti-social to owe money when means are and will be available to pay it, as to commit any one of the lesser crimes which figure in the Newgate Calendar. Another important point touched upon in the paper was the advisability, in the light of a comparative study of Scottish, American and Continental procedure, of providing a further method of attaching wages and salaries. Reference is made to two objections to such a scheme. An employer might combine with his employee to defeat an attachment order, or he might be so scandalised as to relieve the employee of his duties. Practice could, it was urged, minimise the former evil, while, as to the latter, there is bound to be danger of publicity under existing conditions, and in any case a final attachment order would only be made after the debtor had been summoned to show cause why it should not be made. Moreover, the threat and not the deed would, as in other methods, be the most potent factor. Allusion was made to the provisions applying to county courts, whereby unpaid judgments over £10 are publicly registered. Mr. HORTIN stated that the fear of such registration is very real, and added "one may inquire why a similar rule does not apply in the High Court."

Courts of Summary Jurisdiction.

MR. J. S. WALSH advocated in the course of a paper, which is fully reported on p. 731 of the present issue, an extension of the jurisdiction of the courts of summary jurisdiction, and with it a considerable restriction of the powers of lay magistrates in these courts and at quarter sessions. He pointed to a number of existing anomalies relating to distinctions between offences which may and may not be tried by these courts, and dealt with objections to his proposal to eliminate the existing practice in indictable offences involving "two hearings" for the same offence. A magistrate might, he suggested, scrutinise the statements of material witnesses, which might be sworn on oath, or he might interrogate them in his room shortly on oath if he thought necessary, and if there was a *primâ facie* case, the prisoner could be immediately committed for trial without the necessity of any preliminary hearing. The determining factor whether cases of larceny and bigamy, which should be brought within police court jurisdiction, should or should not be dealt with summarily should be the seriousness or complexity of the facts in question in regard to which the magistrate should be in a position to use his discretion, and the existing technicalities should be swept away. The present rights of the accused to elect to be tried by jury should be in no wise diminished. Another manner in which the jurisdiction of the courts in question should be extended is, it was urged, by raising the existing *maxima* awardable under maintenance orders. Matrimonial cases should be heard in private. The speaker recorded his conviction that in order to maintain a progressive and efficient system of police courts and to incorporate the reforms advocated, the work could only be carried out by a highly trained and professionally qualified Bench. He would not accept any argument against a universal system of stipendiaries on the basis of expense. While it was recognised that there was much to be said for the argument that the continued existence of lay magistrates for trivial cases—such as abusive language, assault, minor motor offences and other similar cases—was invaluable, as they were able to take away a large amount of trifling matters from stipendiaries which would involve a tremendous amount of detail and time, Mr. WALSH urged that there should be a stipendiary magistrate to every court (who might sit on circuits in cases of small courts) who should take all the more important business. The speaker, who suggested that stipendiary magistrates might be solicitors, emphasised the value of stipendiaries appointed for their qualifications and ability, and personality only and remaining entirely aloof from any political arena.

Litigation at the Patent Office.

In the course of a paper on the above-named subject, Mr. E. B. Ellis drew attention to the small proportion of patent agents who are solicitors—a fact which he deplored, particularly as there is no register of trade mark agents. In consequence, certain things were happening in trade mark work, both in litigious matters and in ordinary trade mark practice, which, the speaker intimated, would shock his audience. The meagre representation of the legal element in patent agent work was brought out by the fact that out of 360 registered patent agents only four are solicitors, a state of things which presents a somewhat remarkable contrast to the high proportion of solicitors among Parliamentary agents, no less than 82 per cent. of the seventy-one firms listed in the current issue of the London Directory being solicitors. Mr. Ellis, who did not concern himself with the initial grant of letters patent and the initial stages of the registration of trade marks and designs—such matters not being regarded as properly contentious—dealt at some length with litigation *inter partes* and litigation with the Patent Office itself, particularly as regards trade marks and patents, litigious work in connection with designs being somewhat uncommon. Readers must be referred to the full report appearing on p. 735 of the present issue for further particulars of the paper, the subject of which must be regarded as of special interest to a comparatively small section of our readers.

Contracts for Sale of Registered Land.

In the course of a paper, which is reported on p. 736 of the present issue, and will repay careful study on the part of those concerned in the sale of registered land, Mr. Harold Potter dealt with certain aspects of the present position, which it will only be possible shortly to indicate here. The speaker emphasised the fact that a contract for sale of registered land must be regarded with considerable care, and expressed his conviction that the idea that the same form is appropriate for registered and unregistered land is not sound—a fact which has been obscured by the practice of using printed forms. He accordingly suggested that considerable advantage would accrue if separate printed forms existed for registered land instead of the present method of incorporating a few special clauses appropriate to this system of conveyancing. The effects of the decisions in *Re Brine and Davies' Contract* [1935] 1 Ch. 388, and *Chowood Ltd.* v. *Lyall* [1930] 2 Ch. 156, are considered—the general position in regard to descriptions in the Property Register upon which the latter throw light being treated in some detail. Discrepancies between the filed plan and the registry map are alluded to, it being suggested that the Council of The Law Society should make representations to avoid continuance of the practice whereby the former is preserved. Mr. Potter thinks that a plan ought always to be attached to a contract for the sale of registered land, even when the vendor is selling the whole of the land comprised in the title. On the subject of overriding interests—"generally admitted [to be] the weakest link in the chain of registration of title"—the opinion was expressed that the peculiar position of these interests represents a serious defect in the present system of registered conveyancing, and it was suggested for the consideration of The Law Society that representations should be made that at least all such rights, which are disclosed on the title deeds prior to registration or are expressly created by any instrument which is registered, should be entered in full on the register, and that the appropriate statutory amendments should be made. Readers must be referred to the full report for the speaker's remarks on the difficult question of searches and on a number of other matters bearing upon the general subject. One further suggestion may be noted here. The Law Society, Mr. Potter said, might by added importance in its examinations and otherwise encourage articled clerks to take this aspect of their studies far more seriously with a view to mastering the principles of a subject which go a great deal further than the knowledge necessary to draft instruments which will be satisfactory for the purposes of the officials of the Registry.

Sanctions.

As every student of the history of the English language is aware, many words have completely changed their meaning in the course of the centuries, or, if their original signification has been preserved it has been only in certain circles or callings. A notable example of this is furnished by the word "prevent," which has lost its primary meaning as a synonym for "anticipate" save in the authorised version of the Bible, the Book of Common Prayer and the other masterpieces of our literature dating from the same period. More pertinent, however, is the change that has popularly been made in the meaning of the term "sanctions," of which we have been hearing so much in recent days in connection with the functions and decisions of the League of Nations. In common usage the word has come to denote permission or consent, whereas in the sphere of law and ethics it retains its original signification as something which operates to enforce or induce compliance with a rule or order; in other words, in this connection it usually denotes a penalty, which may be economic or physically punitive, imposed for the infraction of some decree. Professor Jenks, however, pointed out, in his New Jurisprudence, that a sanction need not necessarily take the form of a punishment; it may, on the other hand, be a reward, and he gives as an illustration of this a provision in the Rating and Valuation Act, 1925, by which a rating authority was authorised to allow a discount of a limited amount from rates if paid with exceptional promptitude. "It may be said," he goes on to point out, "that the ratepayer is not compelled to make prompt payment, and that compulsion is an essential element of all State law. But this is only another way of saying that, in fact, the State, in enforcing its law, has hitherto made very little use of the sanction of reward, and that the sooner it mends its way the better." For the most part, however, legal sanctions almost invariably take the form of penalties, and it is in this sense we habitually employ the word in international law.

Michaelmas Law Sittings.

The lists for the Michaelmas Term, which begins on Monday, show a total number of causes and matters of 2,765, a decrease of sixty-three compared with last year's figure. Three Courts of Appeal will sit at the beginning of the term, one of them taking appeals from the county courts. The lists show sixteen appeals from the Chancery Division, seventy-nine from the King's Bench Division (including six from the Revenue Paper), three from the Probate, Divorce and Admiralty Division and fifty from county courts. The Divisional Court list numbers 125 matters, including eighty-four in the Crown Paper, eight in the Civil Paper, sixteen in the Revenue Paper and seven in the Special Paper. There are also two motions for judgment and eleven appeals under the Housing Act. In the Chancery Division the adjourned summonses and the non-witness list, which contains seventy causes, will be taken by Eve and Farwell, JJ., while Eve, J., has in addition one matter in Part II of the Witness List, one short cause and two procedure summonses, and Farwell, J., has two adjourned summonses and one matter in Part II of the Witness List. Part II of the Witness List, which contains seventy-eight causes, will be taken this term by Clauson and Crossman, JJ., while Clauson, J., has in addition one assigned matter, and Crossman, J., two assigned matters, one case in the Non-Witness List and one in Part I of the Witness List. Luxmoore and Bennett, JJ., will take the forty-seven cases in the Witness List, Part I, Luxmoore, J., having in addition one further consideration, two assigned matters, one case in the Non-Witness List and one in Part I of the Witness List, and Bennett, J., one retained action.

BENNETT, J., will also deal with company matters, which number 130. The King's Bench Lists show a total of 810 matters. There are 127 special jury actions, fifty-three common jury actions and 385 non-jury actions in the Ordinary List, 186 non-jury cases in the New Procedure List, and twenty cases in the Commercial List, while thirty-nine actions have been set down for hearing under Order XIV. The corresponding figures for last year were 178, 138, 510, 188, 43, and 45, respectively. In the Probate, Divorce and Admiralty Division 1,469 causes are set down for hearing, including fifteen special jury actions and sixty-two common jury actions. The number of undefended cases shows an increase from 802 to 992, and of defended cases from 280 to 400. There are five Admiralty actions. The total number of causes in this division is 1,469—an increase of 329 over that for last year. It may be added that both Chancery and King's Bench Divisions show a decline in the number of causes; the former from 312 to 213, and the latter from 1,102 to 810.

Civil Judicial Statistics.

THE Stationery Office recently published, at the price of 1s., statistics relating to the civil proceedings in the various superior and inferior courts during 1934. Readers desiring full particulars must be referred to the publication. Certain of the principal figures may, however, be briefly referred to here. The total number of proceedings begun in all the courts in question amounted to 1,406,028, which shows a decline of about 88,000, compared with the previous year's figure, and is more than 40,000 less than the average for the past four years. There was a slight increase in the number of appeals taken to the House of Lords—sixty-nine, as against sixty-three for 1933—and a considerable increase in the number of appeals set down in the Court of Appeal, an increase largely, though not entirely, accounted for by the number of county court appeals which went to the Court of Appeal under the Administration of Justice (Appeals) Act, 1934. The total for the Court of Appeal was 582, an increase over 1933 of sixty causes, of which fifty-two were appeals from the county courts. The total number of appeals and special cases in the High Court was 348, a figure which shows a decrease of seventeen on the previous year's total. With regard to the High Court, the totals for the Chancery, King's Bench, and Probate, Divorce and Admiralty Divisions were respectively 5,895, 84,831, 5,480, the first two figures showing a decline of 479 and 4,650 respectively, the third an increase of sixty-five on the totals for 1933. The King's Bench figure is the lowest since 1920. An increase is to be recorded in the number of actions begun in London and in the District Registries of Liverpool and Manchester under the New Procedure Rules which, including cases transferred to the New Procedure List, amounted to 2,577, compared with 2,373, which was the figure for 1933. There was, also, an increase in the number of Matrimonial Petitions filed during the year, the total for which was 5,046, compared with 4,969 for 1933. Poor Persons proceedings, of which over 90 per cent. were matrimonial causes, increased in number by nearly 6 per cent. It is noteworthy that poor persons were successful in about 95 per cent. of the cases in which they were involved. The number of county court proceedings shows a decline of about 6 per cent., the figures for 1933 and 1934 being respectively 1,303,363 and 1,226,809.

Local Government Representations.

RECENT correspondence in *The Times* brings to light an interesting point concerning the representation of the various parts of a county on the council, particularly in regard to the relative strength of rural and urban representation. The matter arose out of proposed changes in the composition of a council. In this case there are, at present, seventy-three councillors, of whom twenty-eight represent boroughs, while eighteen represent urban and twenty-seven, rural districts. It is proposed to have two additional councillors, to increase the number representing urban districts from eighteen to twenty-seven, and to reduce the number representing rural districts from twenty-seven to twenty, the representation of boroughs remaining as before. If boroughs and urban districts are taken together it will be seen that the proportion of urban to rural representation is increased from the ratio 46 : 27 to 55 : 20. In this sense the urban population outnumbers the rural population by rather less than four to one, while the urban local government electors outnumber the rural electors by rather more than three to one. The county in question has an enviable reputation for its hops and fruit, and if the rural representation is reduced at the expense of the urban, the fear was expressed that these interests might be prejudiced. This, it was urged, was not merely a local question, but one affecting the interests of hop and fruit growers generally. The reduction of urban representation should, it was said, be looked at from a national standpoint. An official of the county council in question recalled the statutory obligations imposed by ss. 50 and 46 of the Local Government Act, 1929, to review respectively the county districts and the electoral divisions, and went on to indicate the steps which had been taken and how the proposals had been carefully considered in draft form by the council in question. The views of all the local authorities concerned, which had been asked for, would be considered, and it was possible that the proposals would be amended before being finally approved. Reference was made to the great changes which have taken place since the electoral divisions had been originally fixed under the Local Government Act, 1888. Some rural districts had been abolished, others had become urban districts. Some urban districts had become boroughs. Reverting to the main question, it is to be noted that s. 11 of the Local Government Act, 1933, provides that the electoral divisions of a county shall be arranged "with a view to the population of each division being approximately equal, subject to due regard being had to area, to a proper representation both of the rural and of the urban population, to the distribution and pursuits of the population . . ." (*ibid.*, sub-s. (6), para. (*a*)).

Pedestrian Guard Rails.

IT may safely be assumed that the success of the pedestrian guard rails at Hammersmith and elsewhere is responsible for the projected extension of the device on a scale hitherto unattempted. Wednesday's *Times* announced that the Minister of Transport was seeking to expedite negotiations between his department and the borough councils of Stepney and Poplar with a view to the provision of guard rails along a three-mile stretch of highway which is recognised as one of the "black spots" of London because of the number and seriousness of the accidents which have occurred in the locality. Dealing with road accident statistics in this column some weeks ago we alluded to the high proportion of accidents for which pedestrians were considered to have been responsible, and it must, we think, be recognised that under modern conditions a pedestrian suddenly stepping off the pavement is liable to be injured by a motor vehicle proceeding at a reasonable speed. The provision of guard rails, while protecting the thoughtless pedestrian, will relieve motorists of one of their principal anxieties. Another effect, which should facilitate the movement of vehicles, is, as an official of the Ministry of Transport has stated, that motorists will be able to drive much closer to the kerb, thus making more room for traffic the flow of which will be less liable to interference. It may be hoped that the provision of guard rails will have another, psychological, effect upon the pedestrian who, conscious of the rails at some points of the road-way, may be led to regard the kerb as a place of potential danger. On the stretch of road in question this form of safety device will be used in conjunction with automatic traffic signals, which are to be installed at every street intersection, and pedestrian crossings, which, it is intimated, will be provided where necessary.

Liability of Motor Vehicle Manufacturers for Negligence.

Mr. Justice Lewis has signalised his elevation to the Bench by a decision on the 11th July last, which, if it is sound law, will be considered by many old stagers like the present writer as being of a somewhat revolutionary nature. The case was that of *Malfroot & Another* v. *Noxall Ltd.* (1935), 51 T.L.R. 551.

The facts were simple. Defendants on an order from S. in the middle of May, 1934, fitted a side car to S.'s motor cycle and in so doing were found to have been negligent, and the results of the negligence were serious in that when S. on the cycle was driving his co-plaintiff, M., seated in the sidecar, the sidecar suddenly and without warning came away from the cycle and M. was seriously and S. slightly injured. The accident happened on the 20th May, consequently not long after the sidecar was fitted.

There could, of course, be no question that, when negligence was found, the defendants were (in the absence of express agreement to the contrary) liable in contract to S. To M. they could be only liable in tort, and liability in tort for negligence depends, as every lawyer knows, on whether the negligent person owed a duty to the injured person. It may perhaps be hazarded that had it not been for the recent case of *M'Alister* v. *Stevenson* [1932] A.C. 562 (the snail in the ginger beer bottle), it is doubtful if M. would have been advised to take action at all.

Most law students are familiar with the two old cases of *Langridge* v. *Levy* (1838), 7 L.J. Ex. 387, where the son of the purchaser of a gun was held to have a right of action against the seller for injury caused to him by the bursting of the gun, and *George* v. *Skivington* (1869), 39 L.J. Ex. 8, where the wife of a man who had purchased for her use hairwash compounded by the defendant was held entitled to recover for injury caused to her head by its use. As to the former of these cases, however, it is sometimes forgotten that the claim was for deceit, in other words, for a representation known to be untrue and therefore fraudulent, and as it had been made known to the defendant that the son of the purchaser would be one of the users of the gun it was held that the son could recover damages as the false representation had been made indirectly to him. On the general question of whether a third party can take advantage of the seller's or contractor's negligence, it is little, if any, authority at all.

Of *George* v. *Skivington*, Lord Buckmaster, in his dissenting judgment in *M'Alister's Case*, said "I do not propose to follow the fortunes of *George* v. *Skivington*; few cases can have lived so dangerous and lived so long." Parenthetically it may be said that the judgments of the majority of the Law Lords appear to have resuscitated this case from the moribund state in which Lord Buckmaster found it.

In *George* v. *Skivington* the defendant had compounded hairwash from ingredients known only to himself, and the gist of the decision was that the defendant was liable for his negligence in compounding it to the person for whose use to his knowledge it was bought. Cleasby, B., after referring to the duty of the chemist to take due and reasonable care in compounding, continued: "As soon as that duty arises then you have the allegation of the party *to prevent questions of remoteness applying*, namely, that it was sold upon this representation to the husband in order that it might be used by the wife of the person who purchased it, and that it was known to the defendant that it was intended to be used for that purpose."

Many cases not concerned with the supply or repair of an article have been decided to the effect that a person with whom there is no privity of contract cannot ordinarily take advantage of one party's negligence in carrying out his duties under the contract, but with these we have no real concern, though perhaps mention might be made by way of illustration of one of the most recent of such cases, *Humphery* v. *Bowers* (1929), 45 T.L.R. 297, where H, the owner of a yacht requested Lloyd's Register to have it surveyed (which they undertook to do without liability) and on the certificate of the society's surveyors, one of whom was the defendant, who examined the main-mast, it was classed A1 in the register. Relying on this the plaintiff fitted the vessel out for a voyage and engaged a crew and, by reason of the main-mast collapsing owing to its being rotten, part of his expenditure was thrown away through the delay caused in the fitting of a new main-mast. Rowlatt, J., held that the plaintiff had no right of action against the defendant as the latter owed no duty to him of taking care or of skill in the survey.

Earl v. *Lubbock*, however [1905] 1 K.B. 253, is a case which presents some analogy to that before Mr. Justice Lewis. The defendant in that case, a wheelwright, had contracted to keep in repair the vehicles of a mineral water manufacturer, and owing, as it was alleged, to the negligence of the defendant's servants, a wheel came off one of the vans which was the subject of the contract, and as the direct result the plaintiff, a driver in the service of the mineral water manufacturer, was injured. The county court judge who tried the case held that there was no duty owed to the plaintiff, and his decision was affirmed by the Divisional Court and Court of Appeal. Lord Atkin in *M'Alister's Case*, after referring to some of the *dicta* of the members of the Court of Appeal, said: "I have no doubt that in that case the plaintiff failed to show that the repairer owed any duty to him." Both he and Lord Macmillan referred with approval to observations of Matthew, L.J., in *Earl* v. *Lubbock* to the effect that trade could not be carried on if such a wide proposition was accepted as that every one in the contractee's employ could take advantage of the contractor's negligence in making or repairing goods.

Blacker v. *Lake and Elliot* (1912), 106 L.T. 533, on appeal to a Divisional Court consisting of Hamilton and Lush, JJ. (as they then were), was a case of a brazing lamp manufactured by the defendants and sold by a retailer to the plaintiff, who was injured by its bursting owing to a defective joint after twelve months' use. The jury found that the defendants did not know it was dangerous, but ought, as reasonable men, to have known it. Apparently the learned judges in the Divisional Court thought there was no evidence of negligence, but both appear to have been clearly of opinion that there was no duty owed by the plaintiff to the defendant. Of this case Lord Atkin said he had difficulty in formulating the precise grounds upon which judgment was given, and Lord Macmillan said that he should doubt if the finding of the jury was one of negligence at all, and that if any principle of general application could be derived from it adverse to the appellant's contention (in the *M'Alister's Case*) he should not be disposed to accept such principle.

The actual decision in *M'Alister's Case* by three law lords (Lord Atkin, Lord Thankerton and Lord Macmillan) to two (Lord Buckmaster and Lord Tomlin) was limited to this, that the manufacturers of ginger beer put into an opaque bottle, which was sold to a retailer and by him to a customer, who gave it to the consumer, were liable for negligence in the course of manufacture which resulted in injury to the consumer. Lord Atkin restricts his actual decision to cases in which there was no reasonable opportunity of intermediate examination, and Lord Macmillan, in effect, does the same, saying: "It may be a good general rule to regard responsibility as ceasing when control ceases, but that where the manufacturer takes steps, by sealing or otherwise closing the container so that the contents cannot be tampered with, the control remains effective until the article reaches the consumer and the container is opened by him."

The question whether the principles enunciated by the majority of the law lords in *M'Alister's Case* are to be extended to such things as motor vehicles was, however, left in the air. Reference was made by each of the noble lords whose opinions decided the appeal to two American cases, *Thomas* v.

Winchester, decided in 1852, a case in which the defendant negligently labelled a poison as a harmless drug, and which seems, therefore, to bear a considerable likeness to *George* v. *Skivington*, and *MacPherson* v. *Buick Motor Company*, decided in 1916, in which Cardozo, J., now an Associate Justice of the United States Supreme Court, but then Chief Judge of the New York Court of Appeals, said: "The principle of *Thomas* v. *Winchester* is not limited to poisons, explosives and things of a like nature, to things which in their normal operation are implements of destruction. If the nature of the thing is such that it is reasonably certain to place life and limb in peril when negligently made, then it is a thing of danger. Its nature gives warning of the consequences to be expected. If to this element of danger there is added knowledge that the thing will be used by persons other than the purchaser, and used without new tests, then, irrespective of contract, the manufacturers of this thing of danger is under a duty to make it carefully . . . There must be a knowledge of danger, not merely possible but probable . . . There must also be knowledge that in the usual course of events the danger will be shared by others than the buyers."

Of the three noble lords whose opinions decided the *M'Alister* appeal, Lord Macmillan prefaced what may perhaps by styled a sympathetic quotation from the judgment in the *Buick Case* (from which the above extract is taken) by the words: "In the American Courts the law has advanced considerably in the development of the principle exemplified in *Thomas* v. *Winchester*." Lord Atkin said: "Whether the principle he" (Cardozo, J.) "affirms would apply to the particular facts of that case in this country would be a question for consideration if the case arose. It might be that the course of business by giving opportunities for examination to the immediate purchaser, or otherwise, prevented the relation between the manufacturer and the user of the car being so close so as to create a duty." And Lord Thankerton (whose judgment was much shorter than those of his two colleagues), after referring to the necessity of the consumer of an article which the manufacturer did not know to be dangerous, establishing a special relationship to manufacturer in order to found a claim against him, made use of the somewhat pregnant phrase: "I am aware that the American Courts in the decision referred to by my noble and learned friend Lord Macmillan have taken a view more favourable to the consumer," and his decision was based on the fact that the manufacturer in that particular case under appeal "had intentionally so excluded interference with examination of the article by any intermediate handler of the goods between himself and the consumer."

Reverting now to *Malfroot* v. *Noxall Ltd.*, the short report of this case in the *Times Law Reports* shows that Mr. Justice Lewis held that "On the authority of the *M'Alister Case* the defendants owed a duty to the passenger in the sidecar." He seems from the report (which in this respect may have been imperfect) to have quoted the words used by Cardozo, J., in the American *Buick Case*, as if they had been accepted as law in this country by Lord Macmillan, and having found as a fact that the sidecar was to be used without new tests and that there was negligence on the part of the defendants who fitted it to the motor cycle, he held that they were liable to M., the passenger in tort, and awarded her £400 damages.

It is perhaps curious that the case of *Earl* v. *Lubbock* was not apparently cited, though as this with many other decisions bearing on the rights, or rather absence of rights, of third parties to take advantage of negligence arising out of contract, were fully discussed in the judgments in the *M'Alister Case*, the decision must (it is assumed) have been present in the mind of the learned judge. One may fairly say that the defendants in *Malfroot* v. *Noxall* by fitting the sidecar were in a position analogous to that of the manufacturers of a new vehicle. It may be questioned whether the learned judge would have been prepared to extend the decision to the repairer of a motor vehicle, though the consequences of negligence in carrying out repairs may obviously in some cases be as disastrous as negligence in manufacture. At any rate it may be affirmed that *Earl* v. *Lubbock* has not been overruled or expressly dissented from. Enough, however, has been said with regard to the judgments in the *M'Alister Case* to indicate that in the view of the present writer it is by no means certain that the principle on which the latter case was decided would have been held applicable by all three of the law lords who were responsible for that decision to the facts in the case of *Malfroot* v. *Noxall*, and possibly to justify the assertion that Mr. Justice Lewis' decision was of a somewhat revolutionary nature.

Company Law and Practice.

Offer for Sale.

To-day I want to invite your attention to certain of the portions of the Companies Act, 1929, relating to what are popularly known as "offers for sale." Some part of the code which deals with offers for sale cannot be regarded as entirely satisfactory. It is true that it does not suffer from the elephantiasis which is so marked and unpleasant a characteristic of the sections of the Finance Act, 1930, which deal with companies and estate duty; rather is it a case where clarity has been sacrificed on the altar of brevity.

The sections before s. 38 have, as my readers will remember, been dealing with prospectuses; and the sidenote to s. 38 reads as follows: "Document containing offer of shares or debentures for sale to be deemed prospectus." Now turn to the section itself. Sub-section (1) is as follows:—

> "Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof."

Now that sub-section, when read by itself, does not appear to be open to any very serious criticism; it seems a perfectly reasonable attempt to legislate by reference, so as to save having to repeat almost verbatim in the Act a lot of the matter which applies to true prospectuses, that is, offers for subscription. But when you come to try and apply that section, you are faced with a number of difficulties.

It would perhaps be advisable at this juncture to note that for the purposes of the Act, it is, in the absence of proof to the contrary, evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—

> (*a*) that an offer of the shares or debentures, or any of them, for sale to the public was made within six months after the allotment or agreement to allot; or
>
> (*b*) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received: s. 38 (2).

There is no doubt as to the desirability of bringing offers for sale within the ambit of the law relating to prospectuses.

Before 1929, an offer for sale could be made without complying with the provisions of the Act as to prospectuses, a possibility which was capable of abuse—but, when the Legislature was imposing these very desirable restrictions, why did it not do so in a clearer way?

One or two concrete illustrations will show what is meant. Why should it be necessary for all the directors of the company to sign the offer for sale? The company is only indirectly concerned with it, yet this result follows from the offer being deemed for all purposes to be a prospectus issued by the company: see s. 35. Let us examine some of the "enactments and rules of law as to the contents of prospectuses" which s. 38 (1) tells us are to apply and have effect in respect of offers for sale, as if the shares or debentures had been offered to the public for subscription, and as if persons accepting the offer in respect of the shares or debentures were subscribers therefor. The obvious place to look is the beginning of Part II of the Act; and we find there s. 35, which refers one to the requirements as to contents of prospectuses set out in the 4th Sched. to the Act.

Take Part I, para. 5, of the 4th Sched.; it would appear from the wording of s. 38 (1) that this paragraph should apply to an offer for sale; in fact, some of it, at any rate, can apparently never do so. The question of a minimum subscription (see s. 39) cannot arise in the case of an offer for sale; it is obvious that there can be no minimum amount to be raised by the offer of the shares so far as the company is concerned; anything raised by the offer goes to the offeror, and not to the company. The company gets the sums coming to it in respect of the shares, not from the members of the public who accept the offer for sale, but from the subscribers for the shares offered, usually the offerors. But the second sub-paragraph of para. 5 must evidently be complied with, as must the first sub-paragraph, so far as it is possible.

The first part of para. 8 cannot have any application to an offer for sale, for no property can be paid for wholly or partly out of the proceeds of the offer—unless one treats those words as referring to cases where the offeror has not paid for his shares at the time of the offer, and in fact pays his subscription moneys out of the proceeds of the offer. But this can hardly be the intention; in Part II of the same schedule reference is made to proceeds being applied "directly or indirectly" in the purchase of a business, and it would therefore seem reasonable to suppose that para. 8 refers only to direct application of the proceeds of sale.

Paragraph 11 requires the amount or estimated amount of preliminary expenses to be stated; this seems irrelevant to an offer for sale if "preliminary expenses" is to be given a reasonably natural meaning. In the case of a prospectus offering shares or debentures for subscription, one can appreciate the desirability of a proposing subscriber being furnished with information as to preliminary expenses—but does it matter to a person proposing to purchase shares already issued or agreed to be issued? It would be interesting, and might, perhaps, assist in deciding whether to accept the offer or not, to know what the expenses of the offer were; but this does not seem to be the meaning of "preliminary expenses," which must mean the preliminary expenses of the company—the registration fees, solicitors' costs and so on—and not the expenditure incurred by the person making the offer for sale.

It will be observed that the greater part of the information asked for by the schedule would not ordinarily be within the knowledge of a person not very intimately acquainted with the affairs of the company, and accordingly any person who is going to make an offer for sale must rely to a very large extent on information supplied to him by those who control the destinies of the company. Such person will be well advised not to subscribe or agree to subscribe for shares in a company with a view to making an offer for sale unless he has obtained all the necessary information and signatures, or is in a position by reason of a contract, to obtain the same; without this he might find himself in a serious difficulty. The only safe rule in dealing with these offers for sale, is to comply with every requirement in Pt. IV which is capable of being complied with in any way.

In conclusion, it should never be forgotten that, even if you are making an offer for sale which is not within s. 38, you may still have statutory provisions to comply with. This is apt to be overlooked, because the statutory provisions to which I am now referring are tucked away in s. 356 of the Companies Act, 1929, a somewhat unlikely position. This section is one which deals, in the first sub-section, with the ordinary form of share-pushing by house-to-house canvass; this is absolutely prohibited, though "house" does not include business offices. But sub-s. (2) and the following sub-sections of s. 356 deal with offers in writing to any member of the public of any shares for purchase; any such offer must be accompanied by a signed and dated statement containing the particulars referred to in the section. Different considerations apply to foreign companies, and the following are also outside the section:—

(*a*) shares quoted or dealt in on a recognised stock exchange in Great Britain;

(*b*) shares allotted or agreed to be allotted with a view to their being offered for sale to the public;

(*c*) offers made to persons with whom the offeror has been in the habit of doing regular business in shares.

The result of para. (*b*) above is that offers for sale which are within s. 38 are outside s. 356. The provisions of s. 356, in one practical detail, differ from the provisions of Pt. II of the Act, in that the written statement under s. 356 must contain nothing but the required particulars, and must not be in characters less large or less legible than any characters used in the offer or any document sent with it.

The particulars to be set out in a statement under s. 356 are set out in sub-s. (4) of that section, and I will not weary my readers by referring to them in any detail; they are less comprehensive than the prospectus requirements, but are nevertheless of a useful nature and calculated to give a proposing investor a measure of information on which to base his judgment.

A Conveyancer's Diary.

Assignments by Personal Representatives to Trustees for the Benefit of Creditors.

I HAVE been told by a friend in Lincoln's Inn that several times recently he has come across an assignment by executors of their testator's estate to a trustee for the benefit of creditors. I do not think that it is a common practice for personal representatives to make such an assignment where the estate of the deceased is insolvent, but evidently it is sometimes done. I think that it is a dangerous proceeding from the point of view of the personal representatives themselves, and further I should not like to advise a purchaser to accept a title depending upon the validity of a conveyance by a trustee of such a deed.

There is, I find, a precedent for a deed of assignment for the benefit of creditors by a personal representative in "The Conveyancer," Vol. 2, p. 761, but there is a footnote to it which advises that the form should "be used with the greatest caution and, if possible, with the concurrence of all persons interested under the will."

The authority which seems to be relied upon as a justification for an assignment of this kind is *The Wolverhampton and Staffordshire Banking Co.* v. *Marston* (1861), 7 H. & N. 148.

In that case the defendant was the sole executrix of her late husband, who had devised and bequeathed to her the whole of his property subject to the payment of his debts. The plaintiffs had recovered judgment against the defendant

as such executrix and issued execution *de bonis testatoris*. After judgment, but before execution was levied, the defendant assigned the whole of the assets of the deceased to trustees in trust to realise the same and pay the proceeds to his creditors.

It was held that the assignment was good against the execution creditor.

The judgments proceeded upon the lines that the executrix had full power to dispose of the estate of the deceased as he could have done himself, and so far as the execution creditor was concerned the assignment was good, but Wilde, B., said: "Whether or no the executrix committed a devestavit is another question. Upon that I give no opinion."

There does not appear to have been any decision on the question whether or not in executing such a deed a personal representative commits a devestavit, but it seems to me that he does. I can find nothing in the A.E.A., 1925, or elsewhere to warrant it. Of course a personal representative can convey the legal estate and no doubt as held in the case to which I have referred the assignment would be good against an execution creditor in the circumstances which obtained in that case, but it seems to me that the personal representative would be liable in devestavit for any loss occasioned by the assignment.

The objections, however, to a personal representative making such an assignment are serious.

It is clearly the duty of an executor or administrator to duly administer the assets of the deceased; he is in fact sworn to do so. If he delegates his duties to another, he does so at his own risk.

Suppose that after the trustee of the deed of assignment had parted with the assets, a creditor should appear who knew nothing of the assignment and was not bound by it. The creditor would want to know what the personal representative had done with the assets. I do not see how the defence of *plene administravit* could avail, for the personal representative would not have administered, and I think he would be liable to the creditor.

The personal representative himself, if he were doing as he should do, could protect himself by giving notice by advertisement under s. 27 of the T.A., 1925, provided, of course, that the notice were such "as would in any special case have been directed by a court of competent jurisdiction in an action for administration," but if he had entirely divested himself of the assets and therefore rendered himself unable to discharge any of the debts, he would not be in a position to "convey or distribute the property or any part thereof to which the notice relates, to or among the persons entitled thereto, having regard only to the claims, whether formal or not," of which he had notice. He could not therefore seek protection under that section.

It seems rather extraordinary that a personal representative should ever wish to assign the assets to a trustee for the benefit of creditors, in view of the very wide powers which he has of employing agents and others to assist him in the administration.

Section 23 (1) of the T.A., 1925, enacts:—

> "Trustees or personal representatives may, instead of acting personally, employ and pay an agent, whether a solicitor, banker, stockbroker, or other person, to transact any business or do any act required to be transacted or done in the execution of the trust, or the administration of the testator's or intestate's estate, including the receipt and payment of money, and shall be entitled to be allowed and paid all charges and expenses so incurred, and shall not be responsible for the default of any such agent if employed in good faith."

Whether an estate is insolvent, or thought to be insolvent, or not, therefore, a personal representative can employ solicitors, accountants and others to do the work of administration for him, and if such persons are employed in good faith he will not be liable for their defaults. Persons so employed can do all the work of administration just as effectively as a trustee for the benefit of creditors, and the personal representative will not have denuded himself of the assets and deprived himself of the protection of which he might avail himself under s. 27 of the T.A., 1925.

It is unfortunate, I venture to think, that a precedent for an assignment for the benefit of creditors should have appeared in "The Conveyancer," to which we are all indebted for so many useful forms, even though there be a warning footnote to it.

The danger to the personal representative in making such an assignment does not only come from creditors. The beneficiaries will have something to say about it. It cannot often be said definitely that an estate is insolvent until it has been administered. It is always possible that there may be something for the beneficiaries, and I think that the court would interfere at their instance to prevent the personal representive handing over the assets to a trustee for creditors.

Suppose, however, that no such course were taken and the trustee of the deed of assignment should have a surplus on his hands after payment of the creditors and he failed to account for it. In that case can it be doubted that the personal representative would be liable? I think that he certainly would, and I cannot see why he should run the risk of such an eventuality.

Then there is a still further point which is of interest to the conveyancer.

Would it be safe to take a conveyance from the trustee of such a deed? The purchaser would, of course, have notice that the personal representative had not duly administered but had conveyed all the property to the trustee. He would have no means of knowing whether the estate was insolvent or not, or whether it was necessary to sell the particular property which he was purchasing for the purposes of administration. In taking a conveyance from the personal representative himself he would be safe and not entitled to enquire whether the sale was proper or not, but he would have no such protection in accepting a conveyance from the trustee, because he would have notice of what I suggest would be a breach of trust on the part of the personal representative and would run the risk of the deed of arrangement being set aside on that ground at the instance of those beneficially interested in the estate.

The conclusion at which I have arrived is that deeds of assignment for the benefit of creditors ought not to be made by personal representatives who have no right so to delegate their trust and commit a breach of trust if they do so, and further that it would be unsafe for a purchaser to accept a title from such a trustee or anyone purporting to hold under him. At any rate, the risks involved in making such an assignment are considerable and the advantages negligible.

I may add that, except for the precedent provided by "The Conveyancer," I have not seen any of that kind in the other precedent books in common use.

Landlord and Tenant Notebook.

Breach of Covenant for Quiet Enjoyment by Omission.

A DECISION which has lost much of its authority without noticing it, as it were, is *Pomfret* v. *Ricroft* (1670), 1 Wms. Saund. 321. To trace its career is to see how some dicta do, and others do not, ripen into rules of law.

The case was one in which the plaintiff had taken a dwelling-house and land from the defendant, the lease excepting from the parcels a certain plot, but granting the plaintiff the right to use a pump standing on that plot. During the term the pump fell into disrepair and the plaintiff sued for breach of implied covenant of quiet enjoyment. His argument was that, having no interest in the pump, he could not repair it

himself; he cited several ancient authorities showing that a landlord who let a middle room in a house was liable to maintain the roof, and for the proposition that the grantor of a watercourse was not to stop it up; and having thus fogged the issue, he succeeded in his claim at first instance. But Twysden, J., delivered a forceful dissenting judgment (the reporter says "*contra totis viribus*"), which was adopted by the Exchequer Chamber when allowing the appeal.

The dissentient judge accepted the watercourse principle, but drew an emphatic distinction between misfeasance and non-feasance, holding that the covenant imported by the use of the word "demisit" did not extend to omissions. And he said that the tenant was perfectly entitled to repair the pump, just as the grantee of a right to lay pipes through someone else's land was entitled to enter and repair them.

The second proposition advanced has been adopted and affirmed again and again, and reference is made to it in many decisions of the present century. But, while it may have been of much interest to Mr. Pomfret at the time, the fact remains that it was an *obiter dictum*, and the issue was not whether he had the right, but whether Mr. Ricroft was under an obligation, to repair the pump.

As we have seen, this issue was decided in the landlord's favour on the broad ground that the implied covenant for quiet enjoyment never obliges the covenantor to do anything. For this reason I wish that the decision had been quoted in several more recent cases which have laid down the contrary. For if *obiter dicta* in a judgment can influence courts of law for several centuries, surely respect ought to be paid to the actual decision.

The more recent cases in question commence with *Anderson* v. *Oppenheimer* (1880), 5 Q.B.D. 602, C.A. This was an action by the tenant of a basement, whose premises had been flooded when a service pipe connecting a cistern with another floor, let to another tenant, burst. The cistern was not demised to anyone, but served all floors, by separate service pipes. The plaintiff could not establish negligence, and his claim for breach of covenant for quiet enjoyment was dismissed on the ground that the matter complained of had been done before the lease was granted; but, the defendant having also urged that the covenant did not cover failure to do what was necessary, Cotton, L.J., observed in the course of his judgment: "I agree that an act of omission may be tantamount to an act of commission so as to be a breach of the covenant." An *obiter dictum*, but the thin end of the wedge.

The next case was *Cohen* v. *Tannar* [1900] 2 Q.B. 609, C.A. The facts were somewhat unusual. The defendant had held a three years' lease of a shop, due to expire at Michaelmas, 1900. Disregarding the requirements of a covenant against alienation, he sub-let the premises, without obtaining the prescribed consent of his landlord, to the plaintiff, from 16th November, 1898, to 29th September, 1900, expressly covenanting for quiet enjoyment. A few days later the head landlord assigned the reversion, and the purchaser served a forfeiture notice on the defendant, following it up with a writ of ejectment. The defendant's solicitors advised the plaintiff of this writ and said there was no defence, and soon afterwards the defendant signed judgment by consent. Then the plaintiff awoke to the fact that the defendant had had a perfectly good defence, the cause of forfeiture having arisen before the purchasers of the reversion acquired their interest. So he sued for breach of the covenant for quiet enjoyment. The defence that no act tending to disturb possession or enjoyment had been committed was perhaps hardly accurate as a fact, as the signing of the judgment was a positive act; and while the court was of opinion that a failure to defend a good case would not be a breach of the covenant, Vaughan Williams, L.J., said: ". . . there may . . . be a breach of the covenant by an act of omission, but it must be the omission of some duty . . ."

It is *Booth* v. *Thomas* [1926] Ch. 397, C.A., that really clinches the matter. The plaintiff's hut, which he held of the defendant under a lease with an express covenant for quiet enjoyment, was damaged by water from a burst culvert constructed on adjoining land of the defendant, his landlord, before the date of the lease. The culvert was badly out of repair, and unable to withstand the effects of a storm which, while severe, was not such as could not have been expected. Pure non-feasance, and defendant's counsel is reported to have argued that not a single report showed that an omission could constitute a breach. The court did not quite accept this, but the judgments do not quote any decision to the contrary other than the last two I have mentioned. And in none of the three was *Pomfret* v. *Ricroft* mentioned!

But it seems safe to assume that *Booth* v. *Thomas* is now the law, and is not likely to be disturbed, and when one compares the reasoning of the two cases one cannot help preferring the judgments in the more recent one, in which stress is laid on the words of the express covenant: "That he shall peaceably hold and enjoy . . . without disturbance by the said lessor."

Perhaps future decisions will define more precisely what omissions are actionable. For the present it is clear that there must be a duty to act, and the plaintiff in *Cohen* v. *Tannar*, *supra*, would not have succeeded if there had been mere inactivity in that case. And the ancient authorities referred to by the majority judgments in *Pomfret* v. *Ricroft* were finally disposed of by *Carstairs* v. *Taylor* (1871), L.R. 6, Ex. 218, absolving a landlord of premises damaged by a rat gnawing a hole in a gutter.

Our County Court Letter.

LANDLORD'S LIABILITY FOR REPAIRS.

In the recent case of *Evans* v. *Yates*, at Wrexham County Court, the claim was for £41 14s. as damages for breach of covenant. The plaintiff's case was that he was the tenant of the defendant, who had undertaken to maintain the exterior of the house in good and tenantable repair. By reason of the defendant's failure to execute repairs, the plaintiff had had them done himself, at a total cost of £61, but £19 6s. was admittedly not chargeable to the defendant. Liability was disputed on the ground that the work carried out was in the nature of improvements, and not within the terms of the covenant. His Honour Judge Sir Artemus Jones, K.C. (having inspected the premises) held that they were not in good and tenantable repair, when the plaintiff called in an architect and builder. If the landlord unreasonably disregarded the complaints of the tenant, the latter was entitled to do the work himself. No witness could definitely decide the line of demarcation between essential and unnecessary repairs. In these circumstances justice would be done by giving judgment for the plaintiff for £31 and costs.

THE AGRICULTURAL HOLDINGS ACT, 1923.

In *Jeffery* v. *Moore*, recently heard at Warwick County Court, the claim was for £135 as rent of a farm to the 29th September, 1933; £718 12s. 3d. as damages for breaches of covenant under a verbal agreement; £160 for loss of use of the farm while the breaches were being remedied. The plaintiff's case was that a writ had been issued, but the matter had been referred (by consent) to the county court. The liability for rent was admitted, and in view of *Wedd* v. *Porter* [1916] 2 K.B. 91, the defendant was under an implied obligation to use and cultivate the land in husbandlike manner. The onus was therefore upon the defendant, whose case was that he became tenant in September, 1925, at a rent of £300 a year, viz., 15s. per acre on an area of 463 acres. The farm was then in a shocking state, as the arable land was foul, the fences were bad, and the pasture was full of thistles and ant tumps. The defendant used a steam cultivator in his first year, and succeeded in

improving the state of the farm, but (in view of its condition when taken over) the rent was reduced to £160 a year. It was submitted that there had been no breaches of the rules of good husbandry, as the state of the farm was not the fault of the defendant. The plaintiff was unable to call evidence that the farm was not in a bad state in 1925, and His Honour Judge Drucquer observed that, although the farm was in a neglected and derelict condition, it was not for him to say what came within the rules of good husbandry and the custom of the country. The case would therefore be referred to an arbitrator to decide whether there had been any breach of the implied covenants. Judgment was given for £135 only, with a stay of execution—pending the decision of the arbitrator on the other issues.

THE RESTRICTIVE COVENANTS OF ADVERTISEMENT MANAGERS.

In the recent case of *Whitworth* v. *Shrewsbury Chronicle Limited*, at Shrewsbury County Court, the claim was for £100 as commission due, and the counter-claim was for £25 as damages, and also for an injunction to restrain the plaintiff from carrying on a business known as "The Display Studio," or any business in competition with that of the defendants. The plaintiff's case was that he took up his position in March, 1932, under an agreement to pay him a salary and 5 per cent. commission on the increase in value of advertisements over those in the "previous year," viz., 1931. It was not explained to him at the time that a mistake had been made, or that the reference should have been to 1930, which was a "peak" year. Although he had started printing display posters, show-cards, etc. (as "The Display Studio"), while in the defendants' employ, and without their knowledge or consent, the plaintiff denied that it was a rival business. In any case, the restrictive covenant (in his agreement with the defendants) mentioned three counties, and was unreasonably wide and too vague to be enforced. The defence was that 1931 was a slump year, and the plaintiff was told at the outset (and not in 1935, as alleged) that his commission would only be payable on any increase over 1930. His Honour Judge Samuel accepted the defendants' version, and, as the figures for 1930 had not been exceeded, the claim failed. Judgment was therefore given for the defendants with costs on Scale B. It was further held that the restrictive covenant was unenforceable, and judgment was therefore given for the plaintiff on the counter-claim, with costs.

VENUE OF ACTIONS BY MARKETING BOARDS.

In *Milk Marketing Board* v. *Beech*, recently heard at Chester County Court, the claim was for £45, as the amount of penalties imposed for three offences, viz., selling milk after the expiry of the defendant's licence as a milk retailer. The defendant contended that the Board were well aware that he was selling milk after the expiry of his licence in September, 1934, and had therefore waived their right to impose fines. His Honour Judge Whitmore Richards gave judgment for the plaintiffs, with costs, but protested against the transfer of such cases to Cheshire from the Westminster County Court, when no defence was shown. The result was to involve the plaintiffs, and ultimately the defendants, in far greater expenses in costs.

Obituary.

Sir THOMAS BRAMSDON.

Sir Thomas Arthur Bramsdon, Kt., J.P., solicitor, Coroner for the City of Portsmouth, died on Sunday, 29th September, at the age of seventy-eight. He was admitted a solicitor in 1878, and was a partner in the firm of Messrs. Bramsdon and Childs. He was appointed Coroner at the age of twenty-six, and in 1911 he served as president of the Coroners' Society for England and Wales. He was returned as Liberal Member of Parliament for Portsmouth in the by-election of 1900, and although defeated a few months later was again elected in 1906. After Portsmouth had been divided into four constituencies, he twice represented the Central Division. He received the honour of knighthood in 1909.

Mr. H. J. P. SWEENEY.

Mr. Hubert Joseph Peter Sweeney, barrister-at-law, of Plowden-buildings, Temple, died in hospital, on Tuesday, 1st October, as the result of a street accident. Mr. Sweeney was called to the Bar by the Middle Temple in 1905, and was sixty-seven years of age.

Mr. H. MARTIN.

Mr. Harold Martin, M.A. Oxon, solicitor, a member of the firm of Messrs. T. & T. Martin, Webb & Williams, of Liverpool, died recently at his home at Wallasey. Mr. Martin was admitted a solicitor in 1891.

Mr. R. G. BARNES.

Mr. Reginald Garrould Barnes, solicitor, of Bedford-row, W.C., died in a London nursing home on Saturday, 28th September, at the age of sixty-six. Mr. Barnes, who was admitted a solicitor in 1895, was a partner in the firm of Messrs. Collisson, Pritchard & Barnes, of Bedford-row.

Mr. G. COWIE.

Mr. Gilbert Cowie, solicitor, a member of the firm of Messrs. Wilson, Cowie & Dillon, of Liverpool, died on Tuesday, 24th September, in his seventy-fifth year. Mr. Cowie was admitted a solicitor in 1884.

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To-day and Yesterday.

LEGAL CALENDAR.

30 SEPTEMBER.—On the 30th September, 1645, Serjeant Rolle was appointed by the Parliament a Justice of the King's Bench. Later he became Chief Justice.

1 OCTOBER.—On the 1st October, 1723, Chief Baron Montagu died after presiding little more than a year in the Court of Exchequer, though as an ordinary Baron he had sat there since the beginning of the reign of George I. While at the Bar, he had the alarming experience of being arrested for performing his duty to his clients when, in 1704, the House of Commons committed to the custody of the serjeant-at-arms the counsel who moved for a habeas corpus in favour of the Aylesbury men imprisoned by the arbitrary second chamber for bringing actions against a returning officer.

2 OCTOBER.—Sir William Horne, the Attorney-General, had an uncomfortable quarter of an hour on the 2nd October, 1833, when a deputation of his constituents from Marylebone waited on him at his chambers in Lincoln's Inn, complaining of the prosecutions for obstructing the sale of goods seized for non-payment of the new assessed taxes. He pretended he knew nothing of them. "My name," he said, "is used in the same way as that of John Doe or Richard Roe." "We are quite aware of that," they replied, "and our object in waiting on you is to give you some information on the subject." The interview consisted of a series of diplomatic wriggles by the Attorney-General.

3 OCTOBER.—Chartist agitation brought about some very serious riots in Staffordshire in August, 1842. On the 3rd October, Lord Chief Justice Tinal, coming down on a special commission to try the rioters, charged the grand jury. He expressed the hope that the administration of justice would teach those inclined to subvert the law that it was too strong for them. He suggested also that the only effectual means of counteracting the attempts of wicked and designing men to render the lower classes discontented with established institutions was the diffusion of sound religious knowledge.

4 OCTOBER.—But for the failure of his eyesight, "Handsome Jack" Karslake might have risen to the highest positions in the legal profession. He was only forty-five when he became Solicitor-General and, in the following year, he was advanced to be Attorney-General, holding the post till the Conservatives went out of office in 1868. When they came in again six years later, he resumed his duties, but only for a little while, for his eyes having given out, he was compelled to renounce active public life, though he continued to act upon the Judicature Commission. He died at his house in Chester-square, on the 4th October, 1881.

5 OCTOBER.—On the 5th October, 1792, Richard Torin . . . . Kindersley was born at Madras. He was educated with a view to his following his father into the civil service of the East India Company, but he finally decided in favour of the law, joining Lincoln's Inn, where he was called to the bar in 1818. For thirty years he practised in Chancery as a silk and as a junior, and although his talents had long marked him out for a judicial appointment, all he received at the end of that time was a Mastership in Chancery, for he had no political influence. However, even in that position, he shone so pre-eminently that three years later he was made a Vice-Chancellor.

6 OCTOBER.—Even in 1758 there were traffic problems, for we read that on the 6th October, a farmer at Longhope, in Gloucestershire, was convicted of drawing a narrow wheeled wagon on a turnpike road with more than four horses, and was fined £5. His servant who drove the horses was convicted in the same penalty, and, for want of ability to pay, was sent to the House of Correction for one month, "which it is hoped will be a caution to others."

THE WEEK'S PERSONALITY.

Serjeant Rolle was among the more moderate of the Parliamentarian lawyers. It was not without some perplexity that he agreed to accept a King's Bench judgeship when those who appointed him were at war with the King, and after Charles was captured, he refused to have anything to do with the setting up of the High Court of Justice which condemned him to death. When the royal head had fallen, he consented to assist in the administration of justice, only on condition that the fundamental laws should remain unchanged. He was a puisne judge from 1645 to 1648, in which year he became Chief Justice. In 1655, he retired from the Upper Bench, as the King's Bench came to be called under the Commonwealth, and a year later he died. Sir Matthew Hale wrote of him: "Although when he was at the bar, he exceeded most others, yet when he came to the exercise of judicature, his parts, learning, prudence, dexterity and judgment were more conspicuous. He was a patient, attentive and observing hearer, and was content to bear with some impertinences, rather than lose anything that might discover the truth or justice of any cause. He ever carried on as well his search and examination as his directions and decisions with admirable steadiness, evenness and clearness."

UNWANTED MONEY.

It seems that it is with a certain reluctance that Sir Stafford Cripps accepts "the fabulous and fantastic sums" paid to him for his advocacy by "the people of the ruling classes." A day may come when all fees will be limited by decree to a modest "three and one," but meanwhile his very creditable sentiments place him rather in the position of the Earl of Nottingham with regard to the New Year's gifts which once upon a time brought the Lord Chancellor £3,000 a year. In the words of Lady Cowper, wife of the Chancellor who finally abolished them, "the original of this custom was from presents of wine and provisions, which used to be sent to the Chancellor by the people who practised in his Court, but, in process of time, a covetous Chancellor intimated to them that gold would be more acceptable; so it was changed into gold and continued so till the first time my Lord had the Seals, everybody having blamed it that ever had the Seals, but none forbidding it. The Earl of Nottingham, when Chancellor, used to receive them standing by a table and at the same time he took the money to lay it upon the table, he used to cry out 'Oh Tyrant Cuthtom!' (for he lisped)." Pending a general limitation of fees, the fortunate overpaid can always follow the example of Kay, L.J., at the Bar, who once astounded his clerk by sending for him in the middle of a consultation to ask how much his brief was marked, and, on being told, exclaiming: "Far too high!" Thereupon the conscientious leader made him put down a third of the original fee.

WASTED TIME.

The President of The Law Society recently lamented the inordinate length of cases, greater now, he thinks, than in the past, and suggested that if the time occupied by each were curtailed, judges could get through more. But how shall arguments be shortened? As an example of the difficulties, Sir George Jessel once bitterly offended a learned leader whom he asked to come without delay to what was really relevant. At the end of the case the injured "silk" astonished everyone by saying: "My lord, I took your insult quietly because the case was proceeding. I have now to wish your lordship a respectful adieu, as I shall not, after what your lordship has thought fit to say, appear in your lordship's court again." And he kept his word. Unlike Jessel, some judges, on the other hand, encourage irrelevance. "Will you be good enough to give me the dates?" Chief Baron Kelly once said. "I have already given your lordship the material dates," replied counsel. "Then be good enough now to give me the immaterial ones," said the judge.

THE LAW SOCIETY AT HASTINGS.

ANNUAL PROVINCIAL MEETING.

[By our Special Representative.]

(*Continued from page* 717.)

Mr. J. S. Walsh, LL.B. (Leeds), read the following paper :—

Some Suggested Reforms in Connection with Courts of Summary Jurisdiction.

In the spate of discussion and the intense zeal for reform of our courts and the acceleration of judicial procedure, little attention has been directed to courts of summary jurisdiction. While the limelight has been intensely focussed upon the delays which harass the commercial community, very little thought has been devoted to the necessity of urgent reforms to those courts which affect the lives of so many of the humbler classes.

Courts of summary jurisdiction are still involved in a morass of complicated and archaic anachronisms, of unnecessary expense and delay, and unwarrantable restrictions. Their functioning might easily be rendered far easier, cheaper and more intelligible by reforms which would expedite and assist the course of justice for those members of the community who are in most need of a simple and efficient administration of the law.

Some of the most extraordinary survivals of ancient procedure, completely out of touch with all modern thought, are the extreme and quite meaningless technicalities which distinguish various offences over which courts of summary jurisdiction have cognisance from those with which they have no power to deal. Thus the distinction between housebreaking and shop-breaking and other forms of larceny is absurdly academic and of no real significance. In the first two, however, a police court has no jurisdiction—the defendant must be committed for trial to the assizes or sessions—and in the second case the court may try the defendant with his consent. Consider the absurdity, a man sees a door or a window open and enters a house from which he steals a piece of jewellery worth many hundreds of pounds. He may under these circumstances with his consent be tried in the police court in a simple and inexpensive manner. On the other hand—the door or the window is closed, although perhaps not secured—he opens the door or lifts the window, enters and abstracts, say, a packet of cigarettes worth, say, sixpence. By some sinister reasoning the opening of the door or window has invested the act of stealing the packet of cigarettes with such solemn significance that it is too serious to be dealt with by the same tribunal which has dealt with a crime of stealing a valuable piece of jewellery. All the evidence must be transcribed, written in detail before justices who have no power to try the case—perhaps an hour may be involved in laboriously transcribing a number of depositions, all of which may be admitted by the prisoner. The prisoner may plead guilty and it be his first offence and he desire to be dealt with. Nevertheless the case must be solemnly committed, with all the panoply of ceremonial procedure, for trial to the assizes or sessions—where the prisoner must have counsel to defend him or even to address the court in mitigation, and which he often cannot afford and cannot be granted as a poor person because he may have disclosed no defence—and in the result the prisoner and the State are involved in a huge and unwarrantable waste of time and expense, in addition to the anxiety to the prisoner often of weeks of unhappy waiting.

A man may snatch a wallet containing £500 and have his case carefully and thoroughly investigated, considered and disposed of by the magistrates within twenty-four hours. Should a person, however, be apprehended in the act of purloining a few paltry articles from a house where he has forced the lock—then the same tribunal apparently is not deemed to possess the requisite intelligence or experience to deal with him.

Consider also the quite unreasoning and illogical distinctions between fraudulent conversion by an agent and larceny by a servant or other forms of larceny. A servant who sells his master's samples is guilty of larceny and can be dealt with at the police court if he so desires. An agent who sells his principal's samples has committed the offence of fraudulent conversion in respect of which the case, having first been investigated in the police court, must be committed for trial, no matter how trivial or venial, or how desirous the defendant and the magistrates may be of immediately dealing with the matter. The distinction between the definition of a servant and an agent has on many occasions proved so fine a question as to invoke the aid of higher courts. How absurd that such a distinction should mean the difference between an inexpensive trial and speedy decision in the police court and the cumbrous, expensive and delayed trial at the assizes or sessions.

A man who steals a motor car worth any amount can be dealt with immediately at the police court. A man who has been entrusted with £20 of his workmates' money to save for holidays and fails to account can only be tried or sentenced at the assizes or quarter sessions. If a man steals a cart he may, as in the case of the motor car, with his consent be dealt with at once in the police court. Woe betide him, however, should a donkey be harnessed between the shafts and included in his peculation, for then he must be committed for trial to the sessions or assizes, however trifling the value of the ass. Verily it is a strange modern world which retains the judicial notion that the theft of the long-suffering donkey is so much more serious than the larceny of the latest stream-lined luxurious automobile.

In the vast majority of cases whenever a person may elect to be tried summarily he does so. The committal to assizes or session of simple crimes involves both an unnecessary and extravagant expenditure to the State and to the defendants who, in most cases, have the utmost difficulty in raising sufficient money to be adequately represented. It involves two hearings—the second one an exact repetition of the first. Offenders for crimes involving no great complexity and paltry amounts, often of a few shillings only and often admitted—and perhaps a first offence—must be committed for trial. The expense, the weeks of waiting, the tension of two trials, all involve an unnecessary cruelty in addition to the punishment finally meted out, and a continuation of such a system is a sheer absurdity. All technical distinctions between the procedure in respect of different forms of larceny should be ruthlessly abolished. By this means justice would be more expeditiously and inexpensively effected—prisoners relieved of an expense and anxiety to which they should not be subjected and the lists of assizes and quarter sessions immeasurably lightened.

There are other cases in respect of which the jurisdiction of police courts might be with great advantage extended. Cases of bigamy are almost invariably of a most simple character. The punishment awarded is usually within the limits of the powers of courts of summary jurisdiction. I fail to see why cases of this nature cannot adequately be dealt with by police courts—with the greatest possible saving of expense to all parties and the avoidance of the anxiety of the waiting and the final appearance at the assizes. In all cases of larceny and bigamy the determining factor as to whether a case should be dealt with summarily or not should be not an examination of involved technicalities, or whether a man be a servant or agent, or whether he lifted the latch, or whether he stole the horse or merely the cart, but the seriousness or complexity of the particular facts under consideration, in regard to which the magistrate must use his discretion.

Nothing I have said above must be taken to limit the right of the accused to elect to be tried by a jury. The sacred right of every Englishman to be tried by his fellow citizens must imperishably remain—but he must be endowed with another right, to have his case—except the more serious forms of crime involving great complexity or brutality—dealt with by the courts which are the dispensers of justice to the poor man.

If the jurisdiction of the police court were extended to cases of indecent assault, if it were given a greater power to deal with forgery cases in addition to the matters mentioned above, the lists of cases to be dealt with by the assizes or quarter sessions would be enormously reduced and justice effected so much more expeditiously and cheaply both to the advantage of the State and the defendant.

A matter which has excited the utmost controversy is the thoroughly useless and tedious practice which involves in the police court lengthy depositions of the evidence in indictable cases. Remedies have been suggested by the use of shorthand or by preparing the deposition before the evidence is given, or by the use of a typewriter—but neither of these schemes seem to me to strike at the chief difficulty and absurdity—the question of two hearings of the same offence. The first

investigation takes place before a tribunal which has no power to deal with the case, and is inordinately protracted owing to the necessity of taking down every word in longhand. The justification for the lengthy repetition is stated to be the necessity for the magistrate to ascertain whether there is a *prima facie* case for a superior court. This involves in many cases the solemn farce of processions of witnesses lasting several days, with every word meticulously transcribed.

A double hearing of this nature seems so obviously redundant and superfluous and it seems in my humble submission that the same end can be attained by a much speedier and cheaper means for the State and the individual. The only reason for depositions is to ascertain whether there is a *prima facie* case. The magistrate could scrutinise the statements of the material witnesses, which might be sworn on oath, or he could interrogate them in his room shortly on oath if he thinks necessary, and if there is a *prima facie* case the prisoner could be immediately committed for trial without the necessity of any preliminary hearing. If in any of such cases the offence is one which the prisoner may elect to have dealt with in the police court, he could, on his appearance in the police court, be asked whether he wishes to be dealt with summarily, in which case the court can proceed to try the case. Consider the extraordinary amount of time and expense saved by adopting this procedure.

The lack of necessity for two hearings is shown by the remarkably few cases which a magistrate refuses to commit. No matter how slight the case of the prosecution or how great the probability of acquittal—a magistrate will very rarely assume the responsibility of deciding that there is not a *prima facie* case for a jury, and a defendant is therefore burdened with the expense and anxiety of two hearings. Further, in every case where a defendant is brought to court on a warrant, the magistrate must be satisfied before issuing the warrant that there is a *prima facie* case. In very many cases which may last some days in the police court it is quite obvious from the very commencement that there must be committal and yet the case must drag its weary way to a lengthy conclusion.

In support of my argument I take some statistics of the Leeds Police Court, which is a very representative court. The reports of the chief constable show that in the year ending 31st December, 1934, 1,245 indictable offences were examined by the court, and out of these only twenty in the opinion of the court did not present a *prima facie* case, and the defendants were discharged. All the rest were either committed for trial or fully heard and tried, on the election of the accused, at the police court. The corresponding figures for 1933 were thirty-six out of 1,178, and for 1932, thirty-eight out of 1,116. This demonstrates definitely in how few cases a warrant is issued or arrest made without sufficient preliminary investigation and proof of a *prima facie* case. In 1934, 231 persons were committed for trial, 224 in 1933, and 266 in 1932. In all these cases the prisoners were subjected to two sets of proceedings and the court to all the inordinately lengthy work of taking depositions when, if the procedure above indicated were adopted only one trial would be necessary. In 1934 out of the twenty indictable cases in which there was held to be no *prima facie* case, ten were of the type triable summarily with the consent of the accused and ten of the type over which a police court has no jurisdiction. Assuming the ten former would under the suggested system outlined have elected to be tried in the police court—it means that only ten cases would under such new system go to the assizes or sessions, which under the present system were discharged in the police court. In these ten cases there would only be one hearing in the same way as at present, the difference being that instead of the magistrate, the judge or recorder would decide there was no case for a jury, so that no inconvenience would be really suffered.

There only seem a few possible objections to this procedure, which can easily be disposed of. It may be said that under the scheme outlined the preliminary investigation does not take place in the presence of the prisoner. I do not see how this can possibly prejudice the defendant as the preliminary enquiry is not for the purpose of deciding upon his guilt or innocence, but merely to ascertain whether there is a *prima facie* case, assuming all the evidence for the prosecution is true—which result is now attained by a far more complex method. Further, a magistrate now, before granting a warrant or summons, must be satisfied that there exists sufficient *prima facie* evidence to justify the apprehension of the prisoner, and this must in fact be the case always to avoid the reckless issuing of proceedings.

It may be argued that in some case where a *prima facie* case may be disclosed by the statements of witnesses, it may still be destroyed by cross-examination or by the evidence of the prisoner—and in such cases the prisoner would not be committed for trial under the present procedure. The answer to this is quite simple. Firstly, the number of cases when a prisoner is not committed under the present system is so small that, even if a committal without a preliminary hearing were to be a hardship in a few cases, such hardship would be far outweighed by the advantage to the vast majority. Secondly, it cannot be considered a hardship as after all the prisoner would still be only subjected to one hearing as under the present procedure—the only difference being that instead of such a case being dismissed by the magistrate, it would not be allowed by the judge or recorder to reach the jury.

Another objection that may be raised is the present advantage that the prisoner has of a full knowledge of the evidence of the prosecution as given in the police court, so that he may more adequately prepare his defence. This can easily be dealt with by providing that full statements of all the witnesses for the prosecution must be supplied to the defence before the trial. Even now a skilful advocate for the defendant, knowing that the case is practically certain to be committed, often does not cross-examine very extensively in the court below in order, wherever possible and advantageous, not to disclose entirely his defence.

Another difficulty of the present system is that some courts hold it their duty in every indictable case to take depositions until a *prima facie* case is disclosed, before asking the prisoner to elect whether he desires to be tried by the magistrates or before a jury. The procedure seems to differ in different courts, but I feel that, if under the present system a prisoner were asked to make his election immediately, the trouble of taking depositions would be solved in every case where the defendant elects to be tried before the magistrates.

A further inestimable boon which would be conferred upon the community would be the raising of the maximum amount which a court of summary jurisdiction can award to wives under maintenance orders against husbands who have committed matrimonial offences. The present limit of £2 per week for the wife and 10s. for each child imposes an unwarrantable injustice upon the middle classes, who find the disposal of their matrimonial disputes hedged round with a mass of unjustifiable restrictions and burdensome expenditure. The wife of a working man who is deserted by her husband, or whose husband is guilty of persistent cruelty, can the very next day issue a summons in the police court at the cost of a few shillings and a week later, at a further very slight expense, can have her case fully investigated and disposed of and, if the facts warrant, be granted an order for maintenance. If, however, her husband earns £10 per week instead of £3 and she is entitled to more than £2 per week —her position is impossibly difficult. If she desires to proceed on the grounds of desertion she is subjected to the most cruel delay and expense. She must litigate in the expensive realms of the Probate, Divorce and Admiralty Division of the High Court, where for some obscure reason a husband is not deemed to have deserted his wife until two whole years have elapsed —so that she must, in order to obtain a decree for judicial separation, wait two years and then be involved in most burdensome financial obligations. As an alternative she may go through the complicated farce of presenting a Petition for Restitution of Conjugal Rights against a husband whose conduct may have been such that she does not desire him to return, so that on a breach of this order she may then present her petition for judicial separation. It may take the better part of a year for the petition for restitution to be heard and the better part of a year after that before the petition for judicial separation is disposed of. She will be harassed by numerous interlocutory proceedings—by applications for alimony *pendente lite* and permanent—which are complicated and expensive to enforce, so that in the result the expenditure of money and the lapse of time necessary to enforce her rights are so extensive as to render the enforcement of her rights a ghastly and weary nightmare.

If the jurisdiction of courts of summary jurisdiction in these matters were extended to a maximum of, say £5 per week for the wife and say £1 per week for each child, it would redound to the long overdue advantage of a large class of the community. After all there is no reason why the same speedy and efficient matrimonial justice should not be extended to the middle classes as to the poorer classes.

As Gilbert said :—

> " Hearts just as pure and fair
> May bloom in Belgrave Square
> As in the lowly air
> Of Seven Dials "

and there can be no possible reason for retaining the present cumbersome and costly matrimonial procedure in ordinary middle class cases which do not involve complicated enquiries into settlements and property.

It is beyond all comprehension why the mother of an illegitimate child may obtain an order for maintenance

of the child at the rate of £1 per week against the father, while the mother of a lawful child born in wedlock may only obtain a maximum of 10s. per week for her child from her husband in a court of summary jurisdiction, whatever his means may be.

Further it should be obligatory for the court to hear matrimonial cases in private. There can be no possible advantage to anybody in parading matrimonial entanglements to the prurient gaze of salacious observers, and privacy would enable many a sensitive wife to obtain her just remedies in respect of matrimonial cruelties and injustices which she suffers in silence through the deterrent effect of the exposure of her private sorrows to the cruel publicity which they now receive.

With the extension of the jurisdiction of courts of summary jurisdiction there must be coupled another reform, the exposition of which is bound to arouse considerable controversy, but which I firmly and deeply hold to be essential to the proper administration of English justice—and that is a considerable restriction of the powers of lay magistrates both in courts of summary jurisdiction and of quarter sessions. I emphatically feel that in order to maintain a progressive and efficient system of police courts and to incorporate the reforms before stated—the work can only be carried out by a highly trained and professionally qualified bench. It is perhaps the greatest anomaly of our judicial system that people without any legal training and qualifications should be entrusted with the liberty of their fellow citizens—the interpretation of Acts of Parliament and with deciding often intricate problems of fact and law. If I am alleged to owe 5s. then the matter must be tried in the county court before a lawyer qualified by many years of training to weigh and decide upon questions of conflicting evidence and obscure points of law. On the other hand, if I am in a much more serious position and am charged with having committed an offence which may entail my being imprisoned for six months, my destiny and freedom may be in the hands of the local butcher and baker, whose only recommendation for such immense power is some form of public service—often to some political party—or of men who have achieved a measure of industrial success. I am not attempting to impugn the sincerity of the lay magistrates and appreciate in every case I have known their great care, and thought, and anxiety to accomplish impartial justice. It is, however, unsatisfactory to a lawyer to have to argue questions of fact and law before a lay bench. A lawyer knows the grave distinction between the enthusiasm and sincerity of the layman and the forensic skill in unravelling tangled skeins of evidence and ability to understand and administer the law which are the attributes of the trained lawyer, and can only be acquired by years of training and experience. I have heard the present system justified by the retort that, after all, law is only common-sense and can therefore be administered by any individual who can lay claim to that characteristic. There is no argument more specious and fallacious. Most persons believe themselves to be prodigies of common-sense, but unfortunately there can be so much difference of opinion as to what constitutes common-sense in any particular case, whereas the law is there to lay down definite, ascertained and guiding rules which are not to admit of the same fluidity of interpretation as so-called common-sense, so that there may be a feeling of certainty and knowledge.

Acts of Parliament must of their nature be technical, and what is often called by the layman obscurity is really only the necessity to achieve a precision of definition by the use of words which in law have an ascertained meaning, and therefore the law should only be propounded by those who are fitted to do so by experience, training and knowledge of precedent. Further, while it is the pleasant belief of most people that they are able to adjudicate between their fellows, nobody knows better than a lawyer the intense difficulty of deciding between conflicting and opposing facts—the necessity of being able to extract the essential gist of a matter from the mass of verbiage and irrelevancies which may surround it and to distinguish between the meretricious and the substantial. Such powers and gifts are not, as a rule, divinely endowed, but actually only to be acquired by years of training and experience. It may be said that the magistrates are guided by their clerk, and this is a safeguard. I do not agree. The clerks are very capable, but in some cases are unqualified, and also it seems quite wrong that the magistrates, who have the responsibility of making the decisions and passing sentences, should have to depend upon a clerk for the exercise of these functions. The same evil applies to quarter sessions, where the position often is that a man appeals from a decision of a lay bench to their fellow lay magistrates sitting as a court of quarter sessions, where a chairman, who very often possesses no legal knowledge or training, has to direct juries upon points of law, procedure and evidence. It is often an appeal from a lay bench to practically the same lay bench. If it is right that no lawyer should advise his fellow citizens without a proper training in the law as evidenced and tested by experience and examination, then how much more imperative is it that no man shall pass judgment and sentence without at least the same qualification.

Thus from time to time I have seen most abstruse and difficult questions of law argued before lay benches—which should obviously have been dealt with by a qualified lawyer. The following are a few examples within my own personal knowledge: In one case it was necessary to argue the legal consequences and interpretation of a deed of separation in subsequent maintenance proceedings. In another case there was involved the exact legal meaning of a clause in the new Road and Rail Traffic Act and its application to certain types of industrial societies—this case being a most important test case which affected the position of large numbers of vehicles all over the country. In this particular case the Ministry of Transport itself had been originally approached for an opinion, and with its staff of highly trained and skilled officials had stated that the matter admitted of grave doubts and had hesitantly expressed an opinion from which certain traffic commissioners subsequently differed. A definite answer to a most intricate question of law had then to be given by a local bench of a tiny town—which seems a most unsatisfactory position. On one occasion it was necessary to argue the exact legal consequences of an offer and acceptance as constituting a binding contract of sale. Another time I had to argue the exact meaning of a clause in the Aliens Orders as interpreted by previous decided cases. Instances can be multiplied by every lawyer from his own experience. The continual problems of law, evidence and procedure that lay benches have to decide should always be dealt with by trained professional lawyers.

Reforms, however, come slowly, and perhaps it may be difficult at one fell swoop to abolish an institution which has existed so long in the English legal system. I would not accept any argument against a universal system of stipendiaries on the basis of expense. The fair name of English justice is so valuable that, even though more financial commitments be involved, it is imperative that every avenue be explored to increase its efficiency. It may, however, be argued that in many trivial cases, such as abusive language, assault, minor motor offences and other similar cases, the continued existence of the lay magistrates is invaluable, as they are able to take away a large amount of trifling matters from stipendiaries which would involve a tremendous amount of detail and time. There may be a good deal in this to justify for some purposes the preservation of the lay bench. I would, however, urge that to every court there be a stipendiary magistrate. In cases of small courts which sit once or twice a week the stipendiary could sit on circuit in the same way as county court judges. All the more important work should be taken by the stipendiary. The justices could still adjudicate on minor offences, but every defendant should have the option to elect to be tried by the stipendiary whatever offence he be charged with. A system of this nature would ensure the bringing to bear of a thoroughly trained legal mind upon every case of any importance and that the defendant in every case should always have the opportunity of being tried by a skilled legal administrator.

I believe in this way that the jurisdiction of the courts of summary jurisdiction could be much extended in the ways I have before indicated, and they would be able as time went on to appropriate many offences at present only triable at quarter sessions and assizes, and I feel that the continued existence of the lay bench in its present form is a definite obstacle to such development. The stipendiaries might even be solicitors, for if solicitors are so capably carrying out the duties of High Court Registrars all over the country—dealing with and daily making decisions on matters of first-class magnitude—there is no reason why they should not render justice in the police courts far more efficiently than unqualified magistrates.

Again, when service to a political party is so often the main reason for appointment to the lay bench of many who continue an active interest in politics, I feel it would be all to the good of English justice if the police court magistrates were stipendiaries appointed for their qualifications and ability and personality only, and who remain entirely aloof from any political arena.

I feel that the observations in this paper, which has had to be confined to reasonable length, touch only the fringe of a most important topic which would well repay the earnest attention of the profession.

Sir REGINALD POOLE (London) said he had been much impressed by the paper, which touched on questions of great importance and on abuses which ought to be stopped. He could not speak for the Council, but he would himself see that

the paper was sent to the Master of the Rolls, for consideration by the Committee which was sitting under his Chairmanship to advise the Lord Chancellor on alterations in the law.

Miss CARRIE MORRISON said that she had noticed on more than one occasion that the Council of The Law Society had at heart the interests of the poorer client. In her experience the wealthy client who could well afford refreshers was more vocal in vituperation of the law's delays, but it was the poor client who suffered most. At the present time there was tremendous congestion in the Metropolitan courts and much hardship resulted. In certain cases the defendant could choose whether he would be tried in a court of summary jurisdiction or go to assizes or quarter sessions; when the question was put to a first offender he very often did not understand. He thought it sounded a good thing to be tried at once and get it over, and did not in the least realise what trial by judge and jury might mean in his case. Another point which an inexperienced defendant failed to understand was the difficulty of cross-examination and the value of silence. He found himself suddenly asked if he wished to put any questions and, not knowing in the least what to put, he made his case very much worse. If he could be allowed to state his case at this stage, the court would hear the facts. It would be a very great help to the many solicitors who attended court with poor persons for no fee at all if the work of the court could be better arranged. It spelt bankruptcy to a solicitor if he were going to spend the whole morning and afternoon in court, even if he got a guinea for it. She herself often had to work until ten or eleven at night in her office after a day in the police court.

Apparently in Leeds a married woman could have her case heard within a week, but in London the cases were fixed three weeks ahead and often enough adjourned for a further three weeks. If, then, the husband did not pay the first week, it was seven weeks before she got any money. There was great hardship also for the husband, who might lose his job entirely and at the very least lose a day's pay for attending court. Often enough the court fee was only found by a great effort and a whip-round among the relatives, and to find a second was practically impossible. The Women and Children's Protection Society helped married women and plaintiffs in affiliation cases, but its funds were not large and there was no help at all for men and boys. Miss Morrison said it had never struck her to attempt to increase the amount for which a woman could apply, but she thought it was a very good idea. She had always striven to get special matrimonial courts, and the Home Office had at last appointed a committee to consider the matter. Meanwhile Mr. Claud Mullins was hearing these causes on a special day, an arrangement which was a great improvement, though not ideal. In other courts matrimonial summonses were heard at the end of the day, when everybody was tired out—if the case were reached at all. Magistrates now realised that matrimonial questions were not solely questions of law, and sent them to the probation officer. Nevertheless the probation officer's work was primarily to deal with persons on probation, and he had not time to deal with matrimonial cases fully. It was most important that the economic, physical and psychological aspects should be gone into as well as the legal.

It would be a valuable reform if the evidence need not always be taken in longhand. She had often suffered from prolongation of the proceedings by this necessity, when she had asserted and believed that her case would be a short one. Secondly, it would be a great relief both for the parties and the solicitors, and better justice would be done, if matrimonial and affiliation cases could be taken on a special day. She reminded Mr. Walsh that under the Guardianship of Infants Act a woman could get £1 for her child, but only under a separate summons, and this amount also might well be raised. The present limit was very hard on people who were in quite good circumstances but yet could not afford a Chancery action. Another very desirable change was that these cases should be heard in private. When she had suggested this to the Home Office Committee some of its members had seemed to think that she was striking at the foundations of British justice, but there was no reason why the intimacies of a domestic squabble should be the gossip of the street, and often enough the publicity seriously affected a man's work.

Mr. A. D. THORPE (Hastings) agreed heartily with Mr. Walsh, especially in the remarks he had made at the beginning of his paper about the survivals of ancient procedure. The distinctions were very absurd and caused regrettable delay and expense; he welcomed Sir Reginald Poole's assurance that the paper would be brought to the attention of Lord Hanworth's Committee. He did not agree, however, with the proposal to abolish depositions, which were sometimes really important. It might appear to be a great inconvenience to have a typewriter clicking in court, but Lord Hewart had told him, when chatting after the Banquet, that in some of the Continental courts a silent typewriter had been installed, and this would undoubtedly be a great improvement. It was most tedious for magistrates to have to sit for two or three hours while a clerk wrote out the record of a case of which they could have disposed in half an hour.

Mr. C. E. MARTIN (Southampton) also expressed his agreement. There was a lot to be said for the abandonment of meaningless technicalities, but it seemed that while they were proposing to curtail the jurisdiction of magistrates on the one hand, they were on the other hand enlarging it in matrimonial offences. He had never been able to see why a married woman should only get ten shillings for her child, while a single woman could get a pound. The two-pound limit should certainly be raised. The remedy for most of the problems put forward was the appointment of stipendiaries. Much could be done if it could be made obligatory to have a qualified clerk. Many clerks had no qualifications whatever and yet had the right to advise the justices on law and evidence. Present unqualified clerks should be retired with compensation.

Police advocacy was extremely unfair to the legal profession and tended to be unfair to the defence. It was well known that a little knowledge was a dangerous thing, but every day police officers were seen conducting prosecutions and asking questions which violated the most rudimentary principles of the law of evidence. The lay justices did not understand and the clerk said it was no business of his; the defending solicitor feared to intervene lest he bring the wrath of the magistrates down on his client. Police advocates should not be allowed to open a case, examine a witness or conduct cross-examination. Qualified men should be instructed to prosecute. Mr. Thorpe asked whether this point could not be brought before Lord Hanworth's Committee as an addendum to Mr. Walsh's paper.

Mr. N. T. CROMBIE (York) said that in his city a husband often received a magisterial summons on Tuesday and had to be ready with his case on Thursday. If he were not ready, the magistrates offered him an interim order with an adjournment for as long as he liked. The magistrate was always careful to point out that in no circumstances did an interim order mean that a final order would eventually be made. Advocates who had to appear in magisterial courts objected very strongly to the conduct of cases by the police.

Mr. C. L. NORDON (London) said that an unanswerable case for reform had been made out. It was a strange thing that when a question of law reform was instituted the Lord Chancellor could not deal with it himself but had to be advised. Was it seriously suggested that the learned Master of the Rolls was able to advise the present Lord Chancellor—one of the ablest and most sensible lawyers of the day—and correct any idiosyncrasies in his mind, or that he was able or qualified to advise the present Home Secretary? These officers had the power to accomplish the reforms with a stroke of the pen. One very obvious and necessary reform was the total abolition of the amateur magistrate, a creation of political patronage. That was not the right source of the men to whom was committed the property or liberty of the subject. Moreover, they were in the hands of amateur advisers, and even if the clerk were a highly-skilled lawyer he would still be a man who had power without responsibility.

Mr. S. H. CLAY (Sheffield) thought that the magisterial bench in some parts of the country was not quite so bad as Mr. Nordon had said. There were a number of lawyers on the bench, to the strength of which they considerably added.

Mr. WALSH, replying, agreed that the defendant often did not understand the way in which he was expected to conduct his defence, and so made a complete mess of his case. The only way to deal with this problem was to extend poor persons' defence in the police courts. He could not agree that depositions were necessary for justice.

Success in an examination would not necessarily make a better magistrate's clerk, but it was the magistrate who should be qualified, not the clerk, because he took the responsibility. He thought that the police themselves would be only too pleased to have a solicitor, but they were very rarely allowed to do so. In one case in his experience a police officer had asked a leading question; Mr. Walsh had objected, and after a prolonged discussion his objection had been allowed. When the time for cross-examination came the chairman had exclaimed "But you are doing the very thing you would not let the policeman do!" Mr. Walsh had been in an impasse, as it was impossible to give the Bench a lecture on the elementary laws of evidence. He thought that Mr. Clay really agreed with him, in that he had spoken of the advantage of having lawyers on the Bench.

THE PRESIDENT undertook to bring these important matters before the Council with a view to seeing what could be done.

Mr. GEORGE BELOE ELLIS, *Solicitor and Patent Agent* (London), read the following paper :—

LITIGATION AT THE PATENT OFFICE.

I doubt whether many of my fellow practitioners know either the extent of contentious proceedings at the Patent Office, or the simple and excellent procedure and administration there.

As you know, there are three things with which the Patent Office deals :—

1. The grant of Letters Patent for inventions.
2. The registration of trade marks.
3. The registration of designs.

These are three very different things and are only grouped together because they all relate to the protection of industrial property.

With the initial grant of letters patent and the initial stages of the registration of trade marks and designs, I do not propose to deal, as in reality this cannot, or certainly ought not to, be regarded as contentious.

What I desire to bring to your notice is what may be called " litigation," and for this purpose I can group it into two parts :—

(A) Litigation *inter partes* ;
(B) Litigation with the Patent Office itself.

Litigious work in connection with designs is almost non-existent and, being negligible, I do not propose to deal with it beyond saying that it is possible for an interested person—

(1) to apply for cancellation of a registered design ;
(2) to apply for a licence.

No such application was made in 1934 and there was a grand total of seven in the two preceding years.

The amount of litigation, however, relating to trade marks and patents is considerable. I do not start a proceeding in relation to trade marks without the vision of its finding its way to the High Court or the Court of Appeal and possibly the House of Lords. Fortunately these appeal cases are few and far between. I have one at present in the Court of Appeal, the point in dispute being an assignment of trade mark apart from the goodwill.

There are the following contested proceedings in the case of trade marks :—

(A) Opposition to registration.
(B) Rectification of register.
Mark wrongly registered.
Mark wrongly assigned.
Mark abandoned.
Specification of goods too large.
(C) Appeals to the High Court both in the case of proceedings *inter partes* and also from the Registrar where there is no third party.

Whilst I do not consider the rejection of an application to register as litigious, directly there is an appeal to the court the proceedings become highly contentious.

A trade mark (such as Sunlight Soap, Swan Pens, Millennium Flour, etc.) is a very valuable asset in the Company's balance sheet. It is the business of the Company's trade mark agent to watch the trade marks as they are advertised in the Trade Marks Journal. If there should be advertised any mark which might conflict, an opposition is entered.

The number of oppositions and hearings for the three preceding years are as follows :—

	Oppositions.	Hearings (trial).
1932	117	37
1933	173	34
1934	143	29

The procedure is simple.

(1) The opponent files form T.M. No. 7 (£2 stamp) setting out shortly the grounds on which he opposes (usually because it conflicts with his own mark).

(2) The applicant files a counter-statement admitting what he wants to admit and putting in issue what he does not. Then follows our old Chancery procedure of trial on affidavit, but there is no cross-examination possible nor disclosure of documents.

(3) Opponent puts in declarations in support of his contention.

(4) Applicant puts in declarations in answer.

(5) Opponent puts in declarations in reply.

(6) Hearing.

The hearing usually takes place before the Registrar himself or the Acting Registrar.

The applicant or opponent may appear in person ; but more often they are represented by a trade mark agent or by a solicitor, or by counsel instructed by a solicitor, or by counsel instructed by a trade mark agent.

The decision is almost always given in writing and communicated to the parties by post.

If the mark is not " spotted " in the application stage it is possible to proceed by cancellation (rectification of register).

The procedure is substantially the same. The number of applications for rectification for the three years is as follows :—

	Applications.	Rectifications.
1932	37	26
1933	51	33
1934	38	23

Previous to the Trade Marks Act, 1919, these rectifications could only be made by the Court.

The Trade Marks Act, 1919, giving power to the Registrar to rectify the register, has been most beneficial to the trading community.

Costs.

The successful party usually applies for costs, which are allowed to him on a certain scale. The successful party is usually allowed between £25 and £50. The professional man obtains the residue of his costs, charges and expenses from his own client, who as a rule can well afford to pay.

The total fees paid by the opponent are £4, viz. : £2 on opposition and £2 hearing fee.

The total fees paid by the applicant are £3, viz. : £1 on counter-statement and £2 hearing fee.

The declarations are often made before a justice of the peace, and there are no filing fees.

Appeals.

There are few appeals to the court from these proceedings. In most cases the parties are content with the registrar's decision.

In appeals to the court from proceedings *inter partes*, the registrar takes a neutral position and does not " appear " on the appeal unless the court desires his attendance.

When, however, the registrar refuses a mark and there is an appeal from his decision the fighting qualities of the Briton come out.

It is rather an unequal contest, as the custom is for the registrar to get his costs in the first court, whether he is right or whether he is wrong ; and he can put on the A.-G. or the S.-G. without feeling the draught.

The recent case *Re Trade Mark No.* 143363 (consisting of the word " Sheen " as applies to cotton) is a good illustration of an appeal from the Registrar of Trade Marks. The registrar decided that the word " Sheen " was incapable of registration as it was directly descriptive of the character or quality of the goods.

The applicants (Messrs. Coats) took it to appeal. When the matter came before Mr. Justice Luxmoore by way of appeal, Mr. Wilfred Greene was able to convince the court that the word " Sheen " was registrable. The Trade Marks Office are taking the matter to the Court of Appeal. In this case about 200 declarations were filed from traders all over the country to indicate that goods marked with this trade mark indicated the goods of the applicants, Messrs. Coats. The case is now on its way to the Court of Appeal.

I suppose cotton is one of the greatest industries in this country, and next to that seems to come the liquor trade, or the soap trade. In the *Bass Triangle Case** which went to the House of Lords, ninety-four declarations were filed, and in the *Perfection Soap Case*† (which also went to appeal), over 950 declarations were filed. In a pending opposition case relating to whisky, 234 declarations were filed by the applicant, and twenty declarations by the opponents.

Dealing with cases on the patent side, there are many contested proceedings :—

(1) Opposition to grant.
(2) Belated opposition (in reality a revocation).
(3) Application for compulsory licence.
(4) Dispute between co-owners.
(5) Restoration of lapsed patents.
(6) Opposition to amendments.

The figures for oppositions and hearings of oppositions for the past three years are :—

	Oppositions.	Hearings.
1932	344	125
1933	266	156
1934	276	158
		439

The number of belated Oppositions for the same period is :—

	Oppositions.	Hearings.
1932	32	11
1933	37	25
1934	36	16

* 47 R.P.C., page 379. † 26 R.P.C., page 561.

The procedure is almost the same as in the case of trade marks; except that in the case of patents in addition to the notice of opposition a statement is required in order to show—

(*a*) the opponent's interest;
(*b*) the facts on which he relies;
(*c*) the relief for which he asks.

The declarations are not confined to facts but indicate (perhaps conveniently) how he applies these facts to the particular case.

The hearing comes before the Comptroller himself or one of three persons specially deputed for the hearing of these cases. The Comptroller or other person hearing the case is assisted by an examiner. To begin with, this is an ideal tribunal. The tribunal knows the subject-matter "up to the hilt" and it is quite unnecessary to spend three days in educating the tribunal.

In consequence the hearing usually takes about three hours.

Costs.

The total of the fees payable to the Patent Office is—

Opponent, £3
Applicant, £2

(the fees on belated opposition are a little higher).

The costs allowed to the successful party are anything between seven and ten guineas—a great convenience to know beforehand exactly what you are going to receive or to lose.

It is very rarely that solicitors (or counsel instructed by solicitors) appear on these occasions. The Comptroller has all the powers of an Official Referee and accordingly can call on persons who make declarations to be cross-examined and can also compel discovery of documents; both these powers are rarely exercised.

Up to the passing of the Patent Act, 1932, the appeal from the Comptroller in Opposition cases was to the Law Officer. Under that Act was established an appeal tribunal, to be presided over by a judge of the High Court.

The mischief sought to be remedied was this: law officers change from time to time, and it usually took five or six cases before a new law officer got into the saddle. During these five or six cases we had quite curious decisions.

To remedy this we have now a permanent appeal tribunal, a judge of the High Court taking the place of the law officer.

Patent agents practise before the appeal tribunal in exactly the same way as they did before the law officer.

It was expressly provided that the scale of costs should be the same as that in force prior to the Patent Act of 1932, the successful party usually getting six to ten guineas.

There is a difference of opinion amongst patent agents as to whether the change has been beneficial. My only comment is that the new is much slower; due to a great extent to the hearing taking place in a court instead of across a table.

General Conclusion.

The whole basis of an opposition to a trade mark is that the new mark is calculated to deceive.

As this is the issue, you will see that we have thirty or forty trials every year on what virtually amounts to trade mark infringement.

Beati possidentes. There is a slight loading of the scales against a new mark which comes close to an old mark, as the applicant for the new mark has to prove that his proposed mark is not calculated to deceive or does not in fact deceive. The onus of proof is shifted. This seems just, as a person adopting a new mark can well choose something a little way further off.

Patent oppositions in most cases stand on the same basis, namely, that of infringement. I am confident that I have prevented patent infringement actions in the High Court by means of these opposition proceedings. If a would-be patentee of an "improvement" or "alleged improvement" sees that he is opposed, and successfully opposed, he will think twice before he infringes. A logical argument *pro* and *con* of itself clears the atmosphere.

In these cases we have had many times to consider the British Celanese Patent Specification No. 165519, which was the subject of the appeal to the House of Lords and which cost over £80,000 in law costs.

Although the actual issue of validity was not involved, the Patent Office has had to consider the scope of this patent in many cases, and so far as my cases have been concerned, the Patent Office has not been far wrong in its diagnosis.

I frequently compare patent agents with parliamentary agents, both in relation to the tribunal before which they respectively practise and their relation to counsel.

In the London Directory of this year there are listed seventy-one firms as parliamentary agents, of whom eighty-two per cent. are solicitors.

Out of 360 registered patent agents, there are only four solicitors; and I can confidently say we could do with more; particularly as there is no register of trade mark agents. In consequence, we have certain things happening in trade mark work, both in litigious matters and in ordinary trade mark practice, which would shock you. When more mischief has been done we shall have a register of trade mark agents. We usually lock the stable door after the horse has gone.

Mr. Harold Potter (Dean of the Faculty of Laws at King's College, London), read the following paper:—

Contracts for Sale of Registered Land.

In view of the proposed extension of the compulsory area of registration and the very large increase of voluntary registrations in all parts of the country it is thought that no excuse need be offered for this paper. It may be added that in this county borough which has voluntarily obtained compulsory registration it is perhaps most suitable that such a paper should be read. Some practical experience and a close study of the Land Registration Act and Rules have led the writer to believe that the contract for sale must be regarded with considerable care and the idea that the same form is appropriate for registered and unregistered land is not sound. This fact has been obscured by the practice that has become so very common since 1925 of using printed forms of contract. It is suggested that considerable advantage would accrue if separate printed forms existed for registered land instead of the present method of incorporating a few special clauses appropriate to this system of conveyancing. I would therefore suggest to the Council of The Law Society the desirability of issuing their General Conditions under different classes. Both forms would naturally include many conditions applicable to both forms of title, but each would be simpler, and it is thought that at least in registered conveyancing considerable benefit would result. This course would particularly benefit practitioners whose experience leaves them much less familiar with the course of registered conveyancing than with the older and better known and understood system. Considerable danger exists in too great a reliance upon the similarities between registered and unregistered conveyancing. Compliance with the essential requirements of the registry does not always ensure that all the demands of the situation from the point of view of the client are met.

It is desirable that a paper read to a meeting of this character should be short and consequently it is possible to touch only upon one or two points of the subject-matter and not to deal exhaustively with what is a large subject. The first point is suggested by the recent decision in *Re Brine & Davies' Contract* [1935] 1 Ch. 388; 104 L.J. Ch. 139. In this case a vendor agreed to sell certain registered freehold premises. According to the contract the title consisted of a copy of the entries on the register together with an authority to inspect the register. No mention was made of the fact that the vendor was registered with a possessory title only and as reported the date of registration does not appear to have been given. After inspecting the title the purchaser's solicitors asked for the earlier title prior to registration and after some correspondence due to the fact that the requisition was out of time under cl. 4 (2) of the National Conditions the vendor's solicitors offered without prejudice a statutory declaration of twenty-five years' undisputed possession. The purchaser's solicitors refused to accept this title and contended that under the contract the vendor must show title as a proprietor registered with an absolute title. Farwell, J., held that on the contract the purchaser was entitled to assume that the abstract to be supplied under the contract would show an absolute title and that the statutory declaration did not constitute such a title. Consequently, the purchaser was getting something substantially different from that which he contracted to purchase and, therefore, specific performance could not be granted, and the purchaser was entitled to a declaration that he was entitled to a return of his deposit.

From this decision it appears clearly that, unless an ordinary title is to be shown, in the case of freeholds a registered proprietor selling must state the nature of his title unless it is absolute. It is clearly desirable, therefore, that in every case the contract should state with what title the vendor has been registered. The case itself does not deal with leasehold premises. These are usually registered with a good leasehold title, and it may be that as long as it is so registered the vendor is safe in selling without stating the character of the title registered, but it is suggested that what has been said of freehold applies equally to this case and a wise vendor will always state explicitly whether he is registered with an absolute, good leasehold, possessory or qualified title.

Where the vendor is not registered with an absolute or good leasehold title, it also seems desirable to state the date on which first registration took place. It is imperative, it is

suggested, where the title to be shown is confined to the register, since the description of the title appears to be incomplete without the date of first registration. It is obvious that the length of time during which the title has been registered will have considerable bearing upon any decision by the purchaser's solicitor to accept such a title.

It may also be pointed out in connection with the date of registration that, where a possessory title to freehold has been on the register for fifteen years, the registrar is under an obligation to grant an absolute title upon the fulfilment of certain conditions: Land Registration Act, s. 77 (3) (*b*), and Land Registration Rules 48 (2). The same rules apply to the acquisition of a good leasehold title after ten years. While a vendor may not be willing to go to the expense of applying for an absolute title, the possibility may be of importance to the purchaser.

In any event it seems now that the description of the title with which the vendor is registered is an integral part of the description, either of the title or of the property.

The second point is suggested by the decision in *Chowood* v. *Lyall* [1930] 2 Ch. 156; 99 L.J. Ch. 405, though I want to go considerably outside the limits of that case. Here a proprietor registered with an absolute title brought an action of trespass against an adverse possessor of whom he had no notice at the time he bought the land. The adverse possessor counter-claimed for rectification, and the court dismissed the claim in trespass and ordered rectification of the register. The basis of the decision was that a claim by adverse possession is an overriding interest, and as such takes priority to any interests on the register, and any transfer is by statute subject to such overriding interests: Land Registration Act, s. 20 (1); s. 23 (1). This is independent of any question of notice, and most overriding interests are not noted on the register even where they are created by instruments of transfer or other documents necessary for registration.

The case of *Chowood* v. *Lyall*, *supra*, goes to the root of descriptions in the property register, and it is to this that I wish to devote some little attention. I may assume that it is known to all that in registered conveyancing the description depends upon a plan as well as a verbal description contained in the register, and that any conflict between the plan and the verbal particulars will be determined by the registrar; in fact the plan may be said to be the basis of registered conveyancing: see rr. 272-285. What may not be equally familiar to provincial members of the Society is that in fact there are often not one but two plans affecting the proprietorship register. Where a first registration is made of land outside the compulsory area, a plan is supplied which is not usually taken from the registry map, because commonly there is no registry map for the district. This plan is filed as part of the register and becomes known as the filed plan. It is this filed plan of which a copy is stitched into the land certificate and is ordinarily produced for inspection.

After registration a survey is made on behalf of the Registry, and a map or plan on the scale of the general map is drawn up. It is this map which appears really to constitute part of the description on the register. In practice the filed plan is on a smaller scale than the Registry map, sometimes a very much smaller scale, and in consequence of the map being made at a different time, there are sometimes discrepancies between the filed plan and the map.

While I have never met with a refusal upon a request to inspect the Registry map as well as the filed plan when making a personal search at the Registry, it must be remembered that it is only the filed plan which accompanies the land certificate. No purpose appears to be served by the preservation of the filed plan, and it is suggested that the Council of the Society should make representations to avoid its continuance. In support of this view I will give two illustrations from my own experience. The first concerned a transfer of part of some registered land which had been laid out for building. A discrepancy between the plan in the contract and the filed plan led me to ask to see the Registry map. When this was produced the boundaries as shown agreed neither with my contract nor with the filed plan. In another case I was searching prior to settling the contract when my attention was drawn to a right of way noted on the register and referring to a back road. The filed plan on production did not show a back road, but only an entry which appeared to have no outlet or direct benefit to the dominant tenement. On inspection, the Registry map showed no entry or back road. This was an unfortunate case, because when I inspected the transfer creating the right of way the plan on that document differed from the other two.

I am not putting these forward as normal cases, but their existence makes a strong case for the abolition of duality of registered plans, more especially as it would appear that greater importance attaches to the plan which is not usually produced.

This leads me to the further observation that in my opinion a plan ought always to be attached to a contract for the sale of registered land, even where the vendor is selling the whole of the land comprised in the title. Furthermore, a purchaser is asking for trouble if he does not inspect the land itself after he has a copy of the plan to be annexed to the contract. This is due to the fact that the Registry map is made up on the ground and not, apparently, from the plans filed. It may not infrequently happen, and particularly on building estates, that the physical boundaries on the ground and the boundaries shown on the original plan do not coincide owing to changes which occur. If a purchaser takes a transfer of land in which there is such a discrepancy between the map and the physical features, in all probability he will have to pay a survey fee to have the matter put right even if he does take what he thought he was buying and does not suffer some loss by rectification of the register.

The study of the plan may not necessarily avoid the kind of danger which existed in *Chowood* v. *Lyall*, *supra*, that a purchaser would have transferred to him land which was subject to an overriding interest acquired by adverse possession. It is thought, however, that in the large majority of cases this would be so, and in the remaining cases the purchaser would be left to his remedy on properly drawn covenants for title. I say "properly drawn," because, as I have shown elsewhere, it is probable that the mere use of the words "as beneficial owner" is insufficient.

But it is generally admitted that the weakest link in the chain of registration of title is the subject of overriding interests. A transferee takes subject to all overriding interests whether or not they are entered upon the register, and it is not the practice of the Registry to enter any overriding interests (except way and drainage), even where they are expressly created by a transfer. This appears to me clearly to call for revision and amendment, but in the meantime there is one point which particularly relates to the contract. Under s. 110 of the Act a vendor, apart from contrary stipulation, must furnish an abstract, copy or evidence of any matters excepted from registration, and of any subsisting appurtenant rights as to which the register is not conclusive. This clearly entitles a purchaser to an abstract or copy of any overriding interest created by a transfer. At the present time it is believed that many vendors and purchasers do not keep duplicate transfers which create overriding interests binding or benefiting the registered land; yet it would seem that any purchaser under a contract, whose right is not barred, may and should insist upon being supplied with copies or extracts of all such transfers, even where no mention is made of an overriding interest in the register, and equally where it is. These overriding interests, of course, should be disclosed in the contract, but the provision of abstracts and their verification is not so simple. It is submitted that, if no duplicate executed by the parties is retained, there is no alternative but to search at the Registry. On the other hand, the Registry officials do not like to be asked to produce documents relating to matters not appearing upon the register, and it is at least an open question whether they can be required to do so (see r. 288), though it is suggested that such a right clearly exists under s. 112 of the Act. It is clearly in the interests of the public that a properly authorised person should be entitled to inspect any document filed at the Registry.

The change to registered conveyancing and the emphasis on the register as the title seem to have caused the practitioner to overlook his right to copies of transfers which create easements or other overriding interests. There can, however, be no doubt, I think, that a purchaser is entitled to an abstract of all such transfers, and purchasers from building estates would be well advised in most cases to obtain duplicate transfers executed on completion. The obvious disadvantage of this course is that a registered title tends to become encumbered with a number of subsidiary title deeds, and there is a further objection on the ground that such duplicates should probably be stamped, though the expenditure here is slight. Where the vendor has not obtained such duplicates or there are rights on the title for which he has no title deed, it is clearly desirable to limit the purchaser's rights to such inspection as he may obtain by a search at the Registry. This clause does not appear to be so common in contracts as might in the circumstances be expected. In my opinion the peculiar position of overriding interests represents a serious defect in the present system of registered conveyancing, and I would suggest for the consideration of this Society that representations should be made that at least all such rights, which are disclosed on the title deeds prior to registration or are expressly created by any instrument which is registered, should be entered in full on the register, and that appropriate amendment should be made of s. 110.

These difficulties arising from the problem of the description of the property the subject-matter of the contract, naturally bring me to what must be the last point of this paper—the

question of searches. It is, of course, familiar that a search may be personal or official. At the present time a fee of 1s. is charged for a personal search, and no fee for an official search, except where a personal search is previously made, when a fee of 5s. is charged. The official search gives a priority for registered dealings which is familiar from its similar application in connection with land charges, and, consequently, no solicitor will, in normal circumstances, dispense with the official search immediately prior to completion. In these circumstances it can only be said that there is a fine put upon the method of personal search in the course of investigation of title. The desire to avoid the expense and trouble to the Registry caused by the practice of making personal searches, which appears to have been clearly provided for by s. 112 of the Act, may be natural to the administrator in the Registry. It is suggested, however, that this natural desire is not sufficient ground for the present penalty imposed upon conscientious search of the Registry.

If the practitioner relies solely upon an official search, he must be content with an inspection of the land certificate or an official copy. In this connection it may be said that in the case of sales by private treaty, it is quite a wise precaution to ask for the date at which the land certificate was made up by the Registry. A land certificate will be examined and made up by the officials of the Registry at any time without fee. Consequently, if there is any possibility of changes in internal boundaries, such as on building estates, it is desirable that this should be done at the time of the contract. As an alternative to this course, the purchaser should be supplied with an official copy of the register, which is a very inexpensive matter and avoids the necessity of comparison with the land certificate. The official copy is particularly convenient where the solicitors of vendor and purchaser live at a distance and a stipulation providing for the delivery of an official copy might well be inserted in such a contract. It need hardly be added that the use of an official copy does not dispense with the necessity for an official search or affect what I shall have to say concerning the desirability of a personal search.

Under s. 68 of the Act, a land or charge certificate is admissible as evidence of the several matters therein contained and on the basis of this section a land certificate is treated as an alternative to personal inspection of the register. On the other hand, the only conclusive evidence of the register is the register itself. Land certificates do occasionally contain unauthorised statements and it is no protection to a purchaser that he relied upon what he saw—or at least this appears to be the law. This alone creates a conflict of interest between the Registry and the practitioner or his client. It is obviously more convenient for those concerned in the administration of the Registry that personal searches should at least be reduced to a minimum, if not entirely abolished, but on the other hand those dealing with registered land are only absolutely protected by a personal search in the investigation of title. As I have said, the official search is of inestimable value for protection of priority immediately prior to completion, but it will not rectify any unauthorised entry in the land certificate. No doubt, in the present circumstances, a practitioner could not be found guilty of negligence for failing to inspect the register if any loss was caused by reliance on an unauthorised entry, but in the interests of the client this point cannot be entirely overlooked.

Were unauthorised entries the only problems arising from reliance upon the land certificate, it is probable that in practice personal inspection would be made only where it was more convenient, as, for example, on the ground of distance from the vendor's office or the fact that the land certificate had been deposited as security and that there would be a fee for production. Even these difficulties could be eliminated by the use of official copies of the land certificate, which can be obtained by the vendor for a small fee. The heart of the problem is to be found in the character of the entries on the land certificate itself.

Attention has already been drawn to the position of the plan. It is easy to detect the existence of a filed plan instead of a registry map because of the reference which appears in the description in the property register.

What is perhaps more important is the number of rights which can be conferred by filed documents and which are not entered upon the register or are only incompletely noted. It appears to be plain and inherent in the system that a practitioner is under no duty to inspect filed documents as a matter of course to ascertain the existence or otherwise of undisclosed rights so created, but if he has notice of such rights he must be under a duty to ensure that they have been correctly described, whether in the contract or on the abstract. For example, in those cases in which the existence of restrictive covenants is noted on the register without a full abstract appearing on the register, he must call for the transfer creating the covenants for comparison with the covenants set out in the abstract or in the contract. Similarly, if he has notice of any overriding interests such as easements, he must inspect the transfer to ascertain the exact extent of the burden or benefit so created. In this connection it may be mentioned that an entry on the register is not always a safe guide to the exact contents of the transfer, because it is not always a precise copy of the words of the transfer, which in the case of an overriding interest probably is the only final test of the right created.

Similarly, a registered charge or mortgage requires to be inspected in exactly the same way as a mortgage of unregistered land, unless it is to be discharged prior to the date of completion. Where a registered charge exists, the land certificate will be deposited at the Registry, but the register will not disclose the contents of the charge, only its existence. On the other hand, a purchaser taking subject to such a charge may be affected by collateral terms in exactly the same manner as is possible in the case of unregistered land, and a registered charge can contain the same or similar provisions to an unregistered mortgage.

No doubt these difficulties can in the main be overcome by an abstract of these matters and inspection of duplicates at the office of the vendor's solicitors. In practice, however, such duplicates are commonly not forthcoming, and it appears to be doubtful whether it is desirable that a proprietor's title deeds should consist not only of a land certificate, but also a number of additional title deeds concerning matters which affect the land, but which are not adequately entered upon the register. This is a question of policy and a problem affecting the whole subject of land registration which demands much fuller investigation upon the part of the profession than it has yet received. It is outside the scope of this paper to do more than indicate its existence and earnestly recommend it to the attention of those concerned.

In the meantime it is only left for me to say that the case for continued personal inspection of the register in many, if not most, cases stands as of great practical importance and obstacles set against it should be removed. I may also add that in the light of what I have said there is a danger that an incomplete abstract may be accepted or a clause in a contract limiting the purchaser's right to an abstract of documents may be passed without envisaging the possibly serious consequences.

In conclusion I ought to add that any criticisms that may be here implied on the system of registered conveyancing as it exists at present must not be attributed as imputing any criticism of the officials at the Registry. In my own experience of that office every member is only too anxious to assist the practitioner and to enable him to avoid errors. The subject of land registration is not one which can be entirely understood by the learning acquired in unregistered conveyancing and is worthy of independent and close study. It is thought that, in view of its ever-increasing importance, The Law Society might by added importance in its examinations and otherwise encourage articled clerks to take this aspect of their studies far more seriously with a view to mastering the principles of a subject which go a great deal further than the knowledge necessary to draft instruments which will be satisfactory for the purposes of the officials of the Registry.

Mr. W. A. GILLETT (London) said that the profession had reached the parting of the ways; it had an opportunity of getting in on land registry which it might lose if the chance were not seized now. He asked if Mr. Potter could supply a short form of contract, which would be very useful.

Mr. C. H. GRIFFITHS (Bexley Heath) said that although the Land Registry could charge a fee of five shillings if an official search followed a personal search, in his experience that fee was not charged if the form was accompanied by a letter promising to pay any fees that might become due.

Mr. POTTER replied that Mr. Griffiths had been more fortunate than he had.

CONCLUSION OF THE MEETING.

The Provincial Meeting ended on Thursday with two tours, one to Bodiam Castle, Winchelsea and Rye, and the other to Hurstmonceux Castle, Eastbourne and Battle Abbey. There was a dance at the Queen's Hotel in the evening.

Members who went on the first tour were the guests of Lord Blanesburgh at luncheon at Winchelsea, and afterwards took tea with Mr. E. F. Benson, the Mayor of Rye.

At luncheon, after Lord Blanesburgh had expressed regret at the absence, through illness, of the Lord Warden of the Cinque Ports, Lord Reading, and of the Lord Chancellor, the health of the Society was proposed by Lord Hewart.

Referring to the discussions at the Provincial Meeting, he said he gathered that many of them were of opinion that the administration—he would not say of justice, but of law—required

a complete overhaul and that there were not enough inquiries and committees. If they were going to have another he suggested for their consideration that the next time they should have on the committee first-class business men. But what did they say to a really Select Committee of first-class business women for a complete overhaul of the administration of the law of the country? When that body was appointed he hoped it would not easily adopt the suggestion that the Court of Appeal and Probate, Divorce and Admiralty Division should be abolished. He knew it was said there would be a great deal of saving of money and time if appeals went direct to the House of Lords, and he knew it was said that the probate work might still go to the Chancery Division, which was always genuinely seeking employment, that the Admiralty work might properly go to the Commercial Court, and divorce work to stipendiary magistrates and county court judges. Whatever might be the merits of the proposals, he did hope that the Select Committee would consider them with great care before adopting them. He knew it was said that if the proposals were carried out at least nine judges would be available, without further expense, to do the ordinary work of the Law Courts, and it was said that if that result was brought about they might have the whole nine sitting six days a week from ten in the morning to six in the evening in August and September.

Sir Harry Pritchard responded on behalf of The Law Society, and also proposed the health of their host.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to appoint DIWAN BAHADUR KASARGOD PATANASHETTI LAKSHMANA RAO to be a Puisne Judge of the High Court of Judicature at Madras in the place of Diwan Bahadur Krishnama Sundaram Chettiyar, who has retired.

Mr. C. S. ROBINSON, solicitor, Deputy Town Clerk of Blackburn, has been recommended for appointment as Town Clerk and Clerk of the Peace for Blackburn. Mr. Robinson was admitted a solicitor in 1923.

Mr. E. E. KING, solicitor, Town Clerk of Colwyn Bay, has been appointed Deputy Town Clerk of West Ham. Mr. King was admitted a solicitor in 1924.

Professional Announcements.

(2s. per line.)

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

The next Quarter Sessions of the Peace for the Borough of Wolverhampton will be held at the Sessions Court, Town Hall, North-street, Wolverhampton, on Friday, 11th October, 1935, at 10 o'clock in the forenoon.

Mr. Henry W. Spowart retired from the Town Clerkship of Llanelly at the end of last month, and proposes to resume private practice. Mr. Spowart, who was admitted a solicitor in 1891, became Clerk at Llanelly in 1897.

His Honour Arthur William Bairstow, who is eighty years of age, returned to his former seat on the Bench at Clerkenwell County Court last Tuesday. He deputised for His Honour Judge Earengey, who was indisposed.

Mr. Adam Partington, solicitor, for twenty-five years Town Clerk of Ilford, has resigned that office as from the end of the year. He will continue as Registrar of the Ilford group of county courts. Mr. Partington was admitted a solicitor in 1903.

Mr. Lloyd George has accepted an invitation by the Curriers' Company to unveil an oil-painting of Lord Hewart, the Lord Chief Justice, on 10th October, at the Cordwainers' Hall, Cannon-street, E.C. Lord Hewart is a past master of the Curriers' Company.

The Permanent Court of International Justice meets on 28th October to give an advisory opinion on the question of whether two legislative decrees of 29th August, 1935, amending the Danzig penal code and the Danzig code of penal procedure are consistent with the Constitution of Danzig.

Mr. F. M. Sydenham, the assistant secretary of the Auctioneers' and Estate Agents' Institute, is about to retire under the age limit. He joined the staff of the Institute just over forty years ago, and was formally raised to the position of assistant secretary, which he had in fact held from the outset, when Mr. E. H. Blake, the present secretary, was appointed.

An increase of £90,000 in payments to the Exchequer from Crown lands during the year ended 31st March last, compared with the previous twelve months, is recorded in the annual report of the Commissioners of Crown Lands, issued recently. The gross revenue for the past year was £1,924,406 and the gross expenditure £594,479, compared with a gross revenue of £1,841,321 and a gross expenditure of £606,976 in the preceding year.

A Votive Mass of the Holy Ghost (The Red Mass) will be said at Westminster Cathedral on Monday, 7th October, 1935 (the opening of the Michaelmas Law Term), at 11.30 a.m. His Grace The Archbishop of Westminster will assist. Counsel will robe in the Chapter Room at the Cathedral. The seats behind counsel will be reserved for solicitors, who, upon application to S. Seuffert, Esq., Goldsmith-buildings, Temple, will be sent cards for themselves and friends.

The Directors of the Legal & General Assurance Society Limited have made the following appointments:—Mr. A. J. T. Miller, Nottingham Branch Manager to be Branch Manager at Leeds; Mr. M. J. Thurston, Assistant Branch Manager at Manchester to be Branch Manager; Mr. A. B. Hawkins, Reading Branch Manager to be Branch Manager at Nottingham; Mr. R. H. McLaren, Resident Secretary at Sheffield to be Branch Manager; Mr. P. Carpenter, Group Superintendent; Mr. J. Birch, M.I.Mech.E., Superintendent Engineer.

The National Provident Institution, which is celebrating its centenary this year, has issued a little book giving an interesting account of its formation as a Mutual Life Assurance Society a hundred years ago. The book also contains details of many other salient features in the history of the Institution, with biographical notes of the principal personalities connected with its formation and development. It is fully illustrated, and a copy will be sent to anyone interested on application to the Secretary at the Head Office, 48, Gracechurch-street, London, E.C.3.

The next examinations of the London Association of Certified Accountants will be held on 3rd, 4th and 5th December, in Belfast, Birmingham, Bristol, Cardiff, Cork, Dublin, Edinburgh, Glasgow, Hull, Leeds, Liverpool, London, Manchester, Newcastle-on-Tyne, Nottingham, Plymouth and Sheffield. Women are eligible under the Association's regulations to qualify as certified accountants upon the same terms and conditions as are applicable to men. Particulars and forms are obtainable at the offices of the Association, 50, Bedford-square, London, W.C.1.

A course of public lectures on Comparative Criminal Law will be given by Sir Maurice Sheldon Amos, K.B.E., K.C., Quain Professor of Comparative Law, at University College, University of London, on Wednesdays, at 5.15 p.m., during the Session 1935-36. First term: Comparative Criminal Law from the sixteenth to the nineteenth centuries; ten lectures, beginning 9th October (omitting 30th October). Second term: Comparative Criminal Law (continued); Some Chapters in Modern Civil Law; ten lectures, beginning 15th January. The lectures are open to the public without fee or ticket.

The Royal Institute of International Affairs has prepared a memorandum entitled "Sanctions," which may be obtained from Chatham House, St. James's-square, S.W.1, price 2s. net. The object of this memorandum is to provide a concise and impartial survey of the whole problem of international sanctions. After a summary of the legal basis for the application of sanctions and possible interpretations of Article 16 of the League Covenant, the various types of sanctions are analysed in detail and their political aspects are discussed. Appendixes contain a number of relevant documents and statistical tables.

The first of the series of lectures to be given by Mr. A. F. Topham, K.C., on the 1925 Property Acts, which has been arranged by the Solicitors' Managing Clerks' Association, will be given on Wednesday, 9th October, at the Essex Hall, Essex-street, Strand. The lectures are primarily for members of the association, but arrangements have been made whereby those who are not members can be admitted. Anyone interested should apply to the Hon. Secretary, Arundel House, Arundel-street, Strand, for a copy of the syllabus of the lectures. As previously announced, the lectures will be reprinted verbatim in THE SOLICITORS' JOURNAL commencing with the issue of 19th October.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP I. MR. JUSTICE EVE. Non-Witness.	GROUP I. MR. JUSTICE BENNETT. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Oct. 7	Andrews	Blaker	Hicks Beach	*Jones
,, 8	Jones	More	Blaker	*Hicks Beach
,, 9	Ritchie	Hicks Beach	Jones	*Blaker
,, 10	Blaker	Andrews	Hicks Beach	Jones
,, 11	More	Jones	Blaker	*Hicks Beach
,, 12	Hicks Beach	Ritchie	Jones	Blaker

	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part II.	MR. JUSTICE CLAUSON. Witness. Part II.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Oct. 7	Blaker	*Andrews	*More	Ritchie
,, 8	*Jones	More	*Ritchie	Andrews
,, 9	Hicks Beach	*Ritchie	*Andrews	More
,, 10	*Blaker	Andrews	*More	Ritchie
,, 11	Jones	*More	Ritchie	Andrews
,, 12	Hicks Beach	Ritchie	Andrews	More

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

MICHAELMAS SITTINGS, 1935.

COURT OF APPEAL.

APPEAL COURT No. I.

Monday, 7th October.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and, if necessary, Appeals from County Courts.

Solicitors are requested to note that Appeals from the County Courts will be taken in two Courts, and continued until further notice.

APPEAL COURT No. II.

Monday, 7th October.—Exparte Applications, Original Motions, Interlocutory Appeals from the King's Bench Division and, if necessary, King's Bench Final Appeals.

King's Bench Final Appeals will be continued until further notice.

APPEAL COURT No. III.

Monday, 7th October.—Appeals from County Courts (to be continued until further notice).

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

GROUP I.

Before Mr. Justice EVE.

(The Non-Witness List.)

Mondays ....Chamber Summonses.
Tuesdays ....Short Causes, Petitions, Further Considerations and Adjourned Summonses.
Wednesdays .Adjourned Summonses.
Thursdays ..Adjourned Summonses. Lancashire Business will be taken on Thursdays, the 17th and 31st October, 14th and 28th November and 12th December.
Fridays .....Motions and Adjourned Summonses.

Before Mr. Justice BENNETT.

(The Witness List. Part I.)

(*Actions, the trial of which cannot reasonably be expected to exceed* 10 *hours.*)

Mondays ....Companies (Winding up) Business.
Tuesdays, Wednesdays, Thursdays, Fridays — The Witness List. Part I.

Before Mr. Justice CROSSMAN.

(The Witness List. Part II.)

Mr. Justice CROSSMAN will sit daily for the disposal of the List of longer Witness Actions.

GROUP II.

Before Mr. Justice CLAUSON.

(The Witness List. Part II.)

Mr. Justice CLAUSON will sit daily for the disposal of the List of longer Witness Actions.

Before Mr. Justice LUXMOORE.

(The Witness List. Part I.)

(*Actions, the trial of which cannot reasonably be expected to exceed* 10 *hours.*)

Mondays ....Bankruptcy Business.
Tuesdays, Wednesdays, Thursdays, Fridays — The Witness List. Part I.

Bankruptcy Judgment Summonses will be taken on Mondays, the 21st October, 11th November and 2nd December.

Bankruptcy Motions will be taken on Mondays, the 14th October, 4th and 25th November, and 16th December.

A Divisional Court in Bankruptcy will sit on Mondays, the 28th October, 18th November and 9th December.

Before Mr. Justice FARWELL.

(The Non-Witness List.)

Mondays ....Chamber Summonses.
Tuesdays ...Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays .Adjourned Summonses.
Thursdays ..Adjourned Summonses.
Fridays .....Motions and Adjourned Summonses.

THE COURT OF APPEAL.

A List of Appeals for hearing, entered up to Tuesday, 24th September, 1935.

FROM THE CHANCERY DIVISION.

(Final List.)

R C A Photophone Ltd v Gaumont-British Picture Corporation Ltd
Nicholls v Ely Beet Sugar Factory Ltd
Shipley Urban District Council v Bradford Corporation
Same v Same
Re George Dobie & Son Ltd's Regd Trade Mark No. 291949 Re Trade Marks Acts 1905/19
Re Williams Williams v Templeton
Re J & P Coates Ltd's Application No. 143363 Re Trade Marks Acts 1905/19
Faraday v The Auctioneers and Estate Agents Institute of the United Kingdom
Jennings v Stephens
Odhams Press Ltd v London and Provincial Sporting News Agency (1929) Ltd
James v Harriss
Re Berridge Estates Ltd's Contract Re Law of Property Act 1925
The Clock Ltd v The Clock House Hotel Ltd
Haage v Pegson Ltd

(In Bankruptcy.)

Re a Debtor (No. 415 of 1935) Exparte the Debtor v The Petitioning Creditor and the Official Receiver
Re a Debtor (No. 490 of 1935) Exparte The Debtor v The Petitioning Creditors and the Official Receiver

FROM THE CHANCERY AND PROBATE AND DIVORCE DIVISIONS.

(Interlocutory List.)

Re General Theatre Corporation Re The Companies Act 1929

FROM THE PROBATE AND DIVORCE DIVISION.

(Final List.)

Probate
Re Leguia Leguia v Ashworth

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

Rose v Ford
Same v Same
Drake v Lawrence
Smith v Colman
The British Oil and Cake Mills Ltd v The Moor Line Ltd
Graham v Odhams Press Ltd
Stenning v Same
Shilton v Standing Joint Committee of Leicestershire Quarter Sessions
Nicholson v Inverforth
Randall v London Passenger Transport Board
Halesowen Tube Co Ltd v Smith
Re The Arbitration Act 1889 P Danneberg of Riga v White Sea Timber Trust Ltd of Paris
Fender v Mildmay
Wraight v Walsh Bartram & Walsh (a firm)
Miller v Wright
Alexander v Rayson
Gray v J H & G E Halsey (a firm)
Churchill & Sim v Goddard
Anglo-French Bag Co Ltd v Merchant Trading Co Ltd
McLeod v Warren & Warren (a firm)
The Denaby and Cadeby Main Collieries Ltd v The Brodsworth Main Colliery Co Ltd
Harris v Beck
Goldman v Penney
Burton v Neilson
Smith v Campbell-Everden
Greg v Planque
Carras v London and Scottish Assurance Corporation Ltd
Herring v Sarsfield Walsh & Co Ltd
Tanner v Sarsfield Walsh & Co Ltd
Davis v Rock
Shuttleworth v Holland
Barclay Morgan Griffiths & Co Ltd v Electrical and General Industrial Trusts Ltd
Brinks v Willis
Townley Mill Co (1919) Ltd v The Assessment Committee for the Assessment Area of Oldham
Owen v Sykes
Collis v United Dairies (London) Ltd
Harry v Richardson
Brooke v Napier Development Co Ltd
Measures v Skegness Urban District Council
King v Wood
Roads Reconstruction Ltd v Exeter Corporation
Hunt v Sebba
Knight & Co (Engineers) Ltd v Kinematograph Equipment Co Ltd
Mellors Basden & Co (a firm) v The Banking Agency Ltd
Silkin & Silkin (a firm) v Carter
Spiro v Roman International Charities
Croxford v Universal Insurance Co Ltd
William Jacks & Co (a firm) v Societe de Participation Este
Locker & Wolf Ltd v Western Australian Insurance Co Ltd
Bansall v Baldwins Ltd
Weigall v Westminster Hospital
Rowland v Worden
Field v T M Fairclough & Sons Ltd
Norman v Gresham Fire and Accident Insurance Society Ltd
Roger Mortimer & Co v Kevorkan
Morgenstern v Jewish Post (1934) Ltd
Tynedale Steamshipping Co Ltd v Anglo-Soviet Shipping Co Ltd
Stock v Stansfield
Jones v Cory Brothers & Co Ltd
Brown v McGuire
Davies v Russell
F R Absalom Ltd v The Great Western (London) Garden Village Society Ltd
Newman v Dureau
Outram v Guard
Falcke v American Art Association —Anderson Galleries Inc
Pribik v Klein
Wade v Towers
Guthrie v Short
Rippon v Sussex Finance Corporation Ltd
Corot Ltd v Kann
Dott v Brown
Kulukundis v Norwich Union Fire Insurance Society Ltd
Nash v Stevenson Transport Ltd

(Interlocutory List.)

White v Notley
Isenberg v J Kunert & Sons
Browne v London and Rhodesian Mining and Land Co Ltd

(Revenue Paper—Final List.)

Commissioners of Inland Revenue v Barnato
Fenton's Trustee v The Commissioners of Inland Revenue
Timpson's Executors v Yerbury (H M Inspector of Taxes)
Commissioners of Inland Revenue v Forster
Smart (H M Inspector of Taxes) v. Lincolnshire Sugar Co Ltd
Commissioners of Inland Revenue v Ramsey

FROM COUNTY COURTS.

Hoare v Gooding
Lambert v Hall
Sylvester v G B Chapman Ltd
Jones v Lamond
Robinson v Butt
Hollander v Banks
Harrison v O'Brien
Hamilton Young & Son (a firm) v Kraus
Selborne & Co Ltd v Peel
Jones v Bennett
Holgate v Element
Hoy v Mitchell
Holloway v Kennard
Mussett v Standen
Appleyard v Hall
London County Freehold and Leasehold Properties Ltd v King
Foden v Tibbs
Premier Taxameter Co Ltd v Miller
Keep v Warner & Watson Ltd
Boustead v Carlisle Co-operative Society Ltd
Edmondson v Sir R Ropner & Co Ltd
Hubert v Feldman
Glassburg v Pinto
Myers v Moss
Greenwood v Whiteley
Screech v Manning
Southward v Bulman
Seres v Cramer
Clarke v Way
Gutsell v Reeve
Light & Fulton (a firm) v McVittie
Frost v Kirby
Young v Derby County Council
Kenyon v Darwen Cotton Manufacturing Co Ltd
Hill v Hall & Campbell (a firm)

(Re The Workmen's Compensation Acts.)

Oldroyd v Turner
Kerr v Whitnall & Gregory Ltd
Ellison v Calvert & Heald
Pickervance v Richard Evans & Co Ltd
Same v Same
Bulbeck v Speechley & Smith
Sir Robert McAlpine & Sons (London) Ltd v Higgins
Moore v Cunard Steamship Company
Weeks v Powell Duffryn Steam Coal Co Ltd
Evans v Amalgamated Anthracite Collieries Ltd
Petrie v Red Bank Manufacturing Co Ltd
McGrath v Day & Emery Ltd
Dury v Appleby Iron Co Ltd
Rees v Baglan Bay Tinplate Co Ltd

FROM THE ADMIRALTY DIVISION.

(Final List.)

With Nautical Assessors.

"Castor" 1934—Folio 172 Owners of SS "Trevose" v Owners of Swedish SS "Castor"
"Hjortholm" 1935—Folio 21 Owners of MV "Clan Macdougall" and her freight v Owners of SS "Hjortholm" and her freight

(County Courts.)

"Beldis" 1935—Folio 109 Anglo-Soviet Shipping Co Ltd v Owners of SS "Beldis"

Standing in the "Abated" List.

FROM THE CHANCERY DIVISION.

(Final List.)

Lester v Gough (Abated—Jan. 3rd, 1935)
J Lesquendieu Ltd v Lesquendieu (s.o. generally—May 27, 1935)

FROM THE PROBATE AND DIVORCE DIVISION.

(Interlocutory List.)

Divorce Wells v Wells (s.o. generally—April 8, 1935)

FROM THE KING'S BENCH DIVISION.

(Final List.)

Re Crichton, an Infant (s.o. generally—April 2, 1935)

FROM COUNTY COURTS.

Whiteman Smith Motor Co Ltd v Chaplin (s.o. generally—March 19, 1935)
Pocklington v Ward (Abated—July 8, 1935)

HIGH COURT OF JUSTICE—CHANCERY DIVISION.

There are Three Lists of Chancery Causes and matters for hearing in Court. (I) Adjourned Summonses and Non-Witness Actions; (II) Witness Actions Part I (*the trial of which cannot reasonably be expected to exceed* 10 *hours*) and (III) Witness Actions Part II; every proceeding being entered in these lists without distinction as to the Judge to whom the proceeding is assigned. During the Sittings there will usually be two Judges taking each of these lists and warning will be given of proceedings next to be heard before each Judge. Applications in regard to a "warned" matter should be made to the Judge before whom it is "warned."

Applications in regard to a proceeding which has not been "warned" should usually be made to the senior of the two Judges taking the list in which the proceeding stands.

Motions, Short Causes, Petitions and Further Considerations will be taken by that one of the Judges taking the Non-Witness List who belongs to the group to which the proceeding is assigned.

GROUP I.—Mr. Justice EVE, Mr. Justice BENNETT and Mr. Justice CROSSMAN.

GROUP II.—Mr. Justice CLAUSON, Mr. Justice LUXMOORE and Mr. Justice FARWELL.

The Adjourned Summons and Non-Witness List will be taken by Mr. Justice EVE and Mr. Justice FARWELL.

The Witness List Part I will be taken by Mr. Justice LUXMOORE and Mr. Justice BENNETT.

The Witness List Part II will be taken by Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group I will be heard by Mr. Justice EVE.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group II will be heard by Mr. Justice FARWELL.

Companies (Winding up), Liverpool and Manchester District Registries and Bankruptcy business will be taken as announced in the Michaelmas Sittings Paper.

Set down to September 24th, 1935.

Mr. Justice EVE and Mr. Justice FARWELL.

Adjourned Summonses and Non-Witness List.

Before Mr. Justice EVE.

Retained Action.

Witness List. Part II.

Plaza (Worthing) Ltd v Rowlands Estates Ltd

Short Cause.

Re Moss Westminster Corpn v Rubens

Procedure Summonses.

Treeby v Woodhall
British Thomson-Houston Co Ltd v Crompton Parkinson Ltd

Before Mr. Justice FARWELL.

Retained Matters.

Adjourned Summonses.

Re Letheren Public Trustee v Letheren (pt hd)
Re Jenkins Gray v Jenkins (pt hd)
Witness List. Part II.
Accessory Food Factors Ltd v Witherington (pt hd)

Mr. Justice EVE and Mr. Justice FARWELL.

Adjourned Summonses and Non-Witness List.

Otomatic Supply Co Ltd v Rolfs
Re Huntrod's Application No. 544230 Re Trade Marks Acts, 1905-1919
Re Glyn Coombe v Fitzgerald
Re Griffin Bunce v Griffin
Re Costick Longhurst v The Shipwrecked Fishermen and Mariners Royal Benevolent Society
Re Bocking's Will Trusts Bocking v Bocking
Re Royal Mail Steam Packet Co's Scheme of Arrangement London Maritime Investment Co Ltd v Union Bank of Scotland
Re Norfolk's Lease Moira Colliery Ltd v Shields
Re Crundall Natl Provincial Bank Ltd v Crundall
Re Hatton's Settlement Mills v Staple
Re Gilberts' Contract Re Law of Property Act 1925
Re Law Rothwell v Law
Re Barr Adair v Dowding
Re Edward's Mortgage Re Law of Property Act 1925
Re Fitzhardinge's Conveyance Re Law of Property Act 1925
Re Salisbury Salisbury v John
Re Heath Public Trustee v Heath
Re Chance Re Judgments Act 1864
Re Crackanthorpe Crackanthorpe v. Crackanthorpe
Re Ford Densham v Ford
Re Peterson Turton v Bishop
Re Druder Martin v Webb
Re Maempel Myers v Maple
Re Roe Taylor v Matthewson
Re Atherley Methold v Forrest
Re Blakeshall Estate Re Law of Property Act 1925
Re Wilson Heath v Booth
Re Tinckham Franklin v Wood
Re Bevan Public Trustee v Liverpool Cathedral Committee
Re Ridge Ridge v The Church Army
Re Amcotts-Ingilby Turton v Boodle
Re Harris Harris v Harris
Re Geisel Nicoll v Prideaux
Re Raphael Raphael v Raphael
Re Marlor Public Trustee v Marlor
Re Guetta Royal Exchange Assurance v Guetta
Re Gordon Gordon v Kent and Sussex Hospital
Re Redman's Contract Re Law of Property Act 1925
Re Dean Dean v Dean
Re Godby Cottrell v Godby
Re Piper Davy v Carpenter
Re Johnson Campbell v Williams
Re Norden Public Trustee v Edwards
Re Aaron Laverack v Aaron
Re Nicholl Nicholl v Nicholl
Percival v Jordan
Re Moore Moore v Jones
Re Crookes Settlement Trusts Re Law of Property Act 1925
Re Peters Peters v Lancaster
Re Bracken Looker v Dyson
Re Scott Whitehead v Willis
Re National Flying Services Ltd Cousins v The Company
Re Berry Lewis v Berry
Re Macnamara Macnamara v Macnamara
Re Retirement System of the Equitable Trust Co of New York Bell v Chase National Bank of City of New York
Re Hill Midland Bank Executor and Trustee Co Ltd v Stork
Re Roose Sadler v Barclay
Wiggins & Co (Hammersmith) Ltd v Forsyte Kerman & Phillips
Re Goring Goring v Goring
Re Pyman White v Mawby
Re Thompsons Trusts Petre v Thompson
Re Otty Bowen v Hemingway
Re Lowther Ullswater v Lowther
Re Gerbi Royal Exchange Assurance v Gerbi
Re Guetta Royal Exchange Assce v Guetta
Re Hine Hine v Sanders
Re Martin Martin v Martin
Re Gorham Savill v Kirkby
Re Sargent Wing v Webdell
Sutherland Publishing Co Ltd v Caxton Publishing Co Ltd

Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

Witness List. Part II.

Before Mr. Justice CLAUSON.

Assigned Matter.

Re West Newquay Syndicate Ltd's Conveyances Re Law of Property Act 1925

Before Mr. Justice CROSSMAN.

Assigned Matters.

Re Guardianship of Infants Act 1886 to 1925 Norman v Norman (restored)
Re Same Meera v Meera

Retained Matters.

Non-Witness List.

Re Henderson Barrington v Faringdon (pt hd)

Witness List. Part I.

Dougal v Merridew (pt hd)

Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

Witness List. Part II.

Mackenzie v Darragh Smail & Co Ltd
Smith v Martley Rural District Council
Martley Rural District Council v Kington
Ricketts v Martley Rural District Council
Madlener v Helbert Wagg & Co Ltd (s.o. for security)
Royal Society for the Protection of Birds v Andrews
Re Hackney Furnishing Co Ltd Re Companies Act 1929
Mortimer Estates Ltd v F W Woolworth & Co Ltd (pt hd)
Scott v Scott
Martineau v Higgs & Hill Ltd
Smith v Sturtevant Engineering Co Ltd (s.o. for amendment)
Clayden v J R Pearson (Birmingham) Ltd
Fordham v Rogers & Cook Ltd (not before Oct 8)
Duveck v Cohen
Same v Luddy
Poznanski v London Film Productions Ltd
Aktiebolaget Siefvert and Fornander v Gosta Rosen (fixed for Oct 14)
British Celanese Ltd v British Acetate Silk Corpn Ltd
Livingston v Gould
Powell Duffryn Steam Coal Co Ltd v Edwards
Hicks v Berenger
Roden v John Blundell Ltd
Fox v Duboff (s.o. for amendment)
Hadfield v Hyde Corporation
Swann v Parmenter
A J Aitken Ltd v Hobbs
Re Burgon Wilkinson v Parker
Lawrence's Trustees v The Tudor Investment Trust Ltd
Eason v United Society of Boilermakers and Iron and Steel Ship-Builders (restored)
Pearson-Page-Jewsbury Co Ltd v Lloyd-Pascal and Co
Re Marten Marten v Marten
Re North Swindon Estate Co's Conveyance Ludlow v Fennell
Re Harding Smith v Harding
Electric and Musical Industries Ltd v Lissen Ltd
Goodman v De Larque
H M Attorney-General v Gardiner
Palmyra Laboratories (Liverpool) Ltd v Sadko Beauty Preparations Ltd
Re McNeice Winning v McNeice (with witnesses)
Ostwerd v Hillier
Forrester v National Provincial Bank Ltd
Gerrard Industries Ltd v Johnson and Nephew Box Strapping Co Ltd
H Piggott & Sons Ltd v The British Brick and Tile Corpn Ltd
Cornish v Buzzard
Re Robinson Robinson v Robinson
Wilkinson v Holditch Mines Ltd
Mavin v Prynne
Collier v Quaife
Mostyn v Hughes
Machine Made Sales Ltd v Davies
Norton & Gregory Ltd v Jacobs
Law v Styles
Price v John
Roberts v Cox & Co (a firm)
A T S Co Ltd v Handley Page Ltd (restored)
Hewitts Trustee v Milner
Soc des Productions Cinematographiques Ajax-Films v The British European Film Corpn Ltd
John Knowles & Co (Wooden Box) Ltd v Granville Colliery Co Ltd
Re Russian Bank for Foreign Trade Re Companies Act 1929 (reversal of decision on proof of debt)
Maggs v Farina Cream Product Co Ltd
Worrall v France
Witting v Worcester Corsetry Ltd
Hearn v Mew
Tibbals v Port of London Authority
Lamb v Lamb
Raymond Savage Ltd v Nichols
Cantlay v Hammond
Re McIntosh Lander v McIntosh
Re Rose Rose v Rose
Smith v Edmonton Urban District Council
Vinter v Pullman (Spring Filled) Ltd (restored)
Same v Same (restored)
Re Davis Davis v Ffrench
Layton-Bennett v Williams
British Celanese Ltd v Cellulose Acetate Silk Co Ltd
Maxey v Stokes
Wood v Gowshall Ltd
Gillette Industries Ltd v Levy
King-Hedinger v Marcus

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Witness List. Part I.

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Before Mr. Justice LUXMOORE.

FOR JUDGMENT.

Witness List. Part II.

British Acoustic Films Ltd v Nettlefold Productions (a firm)

Retained Matters.

Witness List. Part I.

Shaw v Paragon (pt hd—s.o. for settlement)

Non-Witness List.

Watson Taylor v Watson Taylor

Further Consideration.

Re Mintoft Mintoft v Chapman (pt hd)

Assigned Matters.

Re Tribe's Patent Re Patents and Designs Act 1907/32
Re Patents and Designs Acts, 1907/32 Re Henderson's Letters Patent No. 159604 (not before Nov 1)

Before Mr. Justice BENNETT.

Retained Action.

Hearts of Oak Assce Co Ltd v James Flower & Sons (a firm)

Companies Court.

Petitions.

Alliance Bank of Simla Ltd (to wind up—ordered on Dec 21, 1931, to s.o. generally—liberty to restore)
Britivox Ltd (same—ordered on Nov 16, 1931, to s.o. until action disposed of—liberty to restore)
London Clinic and Nursing Home Ltd (same—ordered on May 8, 1933, to s.o. generally—liberty to apply to restore)
Mitcham Creameries Ltd (same—ordered on Oct 15, 1934, to s.o. generally—liberty to apply to restore after action disposed of)
Lena Goldfields Ltd (same—ordered on July 25, 1935, to s.o. generally—liberty to restore
Sun-Ray Studios Ltd (same—ordered on July 15, 1935, to s.o. generally)
Dunkley & Burden Ltd (same—s.o. from July 29, 1935, to Oct 14, 1935)
Westminster Estates Ltd (same—s.o. from July 29, 1935, to Oct 14, 1935)
London & Provincial Securities Ltd (same—s.o. from July 29, 1935, to Oct 14, 1935)
Model Clearing House Ltd (same)
Phillips Brown (Manchester) Ltd (same)
Derby Securities Ltd (same)
M E T Garages Ltd (same)
J Nissenbaum & Co Ltd (same)
E & G C Ltd (same)
Edison Bell (International) Ltd (same)
F H Carpenter & Son Ltd (same)
Read (Contractors) Ltd (same)
Treewood Ltd (same)
United Service Bureau Ltd (same)
Arundell Clarke Ltd (same)
Cliffdown Appliances Ltd (same)
Princes Theatre (Shaftesbury Avenue) Ltd (same)
Rubberware Ltd (same—with witnesses—s.o. from Sept 4, 1935, to Oct 14, 1935)
British Brick & Tile Corporation Ltd (same)
Edward Bennis & Co Ltd (same)
Pirim Ltd (same)
Stockwell Pharmacy Ltd (same)
J Gauld & Co Ltd (same)
Berwick Gowns Ltd (same)
S Selzer Ltd (same)
Trowbridge Tyre & Rubber Co Ltd (same)
British & Dominions Investment Trust Ltd (same)
Arundel Clarke Estates Ltd (same)
Ashley Briggs Ltd (same)
H & C Gowns Ltd (same)
Walkers Specialities Ltd (same)
Delite Ltd (same)
J W Estevez & Co Ltd (same)
Geo Lister & Co Ltd (same)
International Jewellers Supplies Ltd (same)
Walker & Walker Ltd (same)
Focke & Co Ltd (same)
Fen Research Ltd (same)
Fen Farming Co Ltd (same)
Bogutsky Ltd (same)
Woodside Farm Ltd (same)
Windsor Mushrooms Ltd (same)
J Briggs Electrical Contractors Ltd (same)
West Coast Trading Co Ltd (same)
North Mexico Land & Timber Co Ltd (same)
Rosah Ltd (same)
Woodleigh Estates Ltd (same)
Bescraft Ltd (same)
Miller & Company (Radio) Ltd (same)
Parcel Publicity Printers Ltd (same)
Banking Agency Ltd (same)
Sterling Textiles Ltd (same)
Maximus Construction Ltd (same)
Rendez-vous Restaurant Ltd (same)
A Black & Co Ltd (same)
T W Smart & Co Ltd (same)
A H Page Ltd (same)
Commercial Rubber Products Ltd (same)
Kaye Cinemas Ltd (same)
Paul Ruinart (England) Ltd (to confirm reduction of capital)
British Woollen Cloth Manufacturing Co Ltd (same—ordered on Dec 8, 1930, to s.o. generally—liberty to restore)
Charles Brown & Co Ltd (to confirm reduction of capital)
Strange the Printer Ltd (same)
Kafue Copper Development Co Ltd (same—ordered on April 15, 1935, to s.o. generally—liberty to apply to restore)
Shirtliff Smith & Co Ltd (to confirm reduction of capital)
English Motor Agencies Ltd (same—ordered on April 1, 1935, to s.o. generally—liberty to apply to restore)
Imperial Chemical Industries Ltd (same—ordered on July 30, 1935, to s.o. generally—liberty to apply to restore—retained by Mr. Justice Eve)
William Elliott & Sons Ltd (to confirm reduction of capital)
Savoy Taylors' Guild Ltd (same)
Vectis Shipping Co Ltd (same)
Paper Sacks Ltd (same)
Associated Lace Manufacturers Ltd (same)
Mortgage Co of Egypt Ltd (same)
Erith & Co Ltd (same)
John Lewis & Co (Motors) Ltd (same)
United Motors Ltd (same)
H Wheeler & Co Ltd (same)
Lamot Ltd (same)
Van Ryn Gold Mines Estate Ltd (same)
Malayan Rubber Loan & Agency Corporation Ltd (same)
Gibson (Cranleigh) Ltd (same)
"Cavendish Company Ltd" (same)
Exchange Sewing Machine Co Ltd (same)
Brownhills Estate Co Ltd (same)
Melbourne Electric Supply Co Ltd (same)
Walker's Tanneries Ltd (same)
Chapman & Hall Ltd (same)
Kosmos Photographies Ltd (same)
Gresham Street Warehouse Co Ltd (to confirm alteration of objects)
Society of Certified Teachers of Pitman's Shorthand and other Commercial Subjects Ltd (same)
National Farmers Union Mutual Insurance Society Ltd (same)
Hastings and St. Leonards Central Assembly Room and Arcade Co Ltd (same)
Dorricotts Ltd (to sanction scheme of arrangement)
Middlesex Banking Co Ltd (same)
Lena Goldfields Ltd (same—ordered on July 25, 1935, to s.o. generally—liberty to restore)
Colchester Brewing Co Ltd (s. 155)
Queen's Club Garden Estate Ltd (s. 155)
Western Mansions Ltd (s. 155)
Metallic Seamless Tube Co Ltd (s. 155)
Chesterfield Tube Co Ltd (s. 155)
British Italian Banking Corporation Ltd (s. 155)
E W Rudd Ltd (to confirm reorganisation of capital)

Simplifix Couplings Ltd (to sanction scheme of arrangement and confirm reduction of capital)

Motions.

Trent Mining Co Ltd (ordered on July 31, 1931, to s.o. generally—liberty to restore)
King's Cross Land Co Ltd (ordered on June 26, 1934, to s.o. generally—liberty to apply to restore)
Flactophone Wireless Ltd (ordered on July 10, 1934, to s.o. generally)
Sunshine Remedies Ltd (ordered on July 29, 1935, to s.o. generally)
Brittains Motors Ltd (ordered on July 8, 1935, to s.o. generally—liberty to apply to restore)
Davis & Collett Ltd

Adjourned Summonses.

Marina Theatre Ltd (Application of F H Cooper—with witnesses—ordered on May 10, 1933, to s.o. generally—liberty to apply to restore)
W Smith (Antiques) Ltd (Application of Liquidator—with witnesses—ordered on Dec 8, 1932, to s.o. generally)
Essex Radio Supplies Ltd (Application of Official Receiver and Liquidator—with witnesses—ordered on Oct 31, 1934, to s.o. generally)
Pictos Ltd (Application of Liquidator—with witnesses—ordered on March 29, 1935, to s.o. generally—liberty to apply to restore)
Bulloch Brothers & Co Ltd (Application of Liquidator)
Finsbury and South Place Securities Co Ltd (Application of C Allerton—with witnesses)
Imperial Ottoman Docks Arsenals and Naval Constructions Co (Application of R. Hirzel)
Lena Goldfields Ltd (Application of Witkowitzer Bergbau-und-Eisenhutten Gewerkschaft and anr—ordered on July 25, 1935, to s.o. generally—liberty to restore)
Grosvenor Gowns Ltd (Application of Official Receiver and Liquidator—with witnesses)
Same (same)
Same (same)
International Airlines Ltd (Application of Liquidator—with witnesses)
Concrete Building Commodities (London) Ltd. (Application of J R Roberts—with witnesses)
Inter-co-operative Investments Ltd. (Application of Official Receiver and Liquidator—with witnesses)
Anchor Line (Henderson Brothers) Ltd (Application of Ocean Steamship Co Ltd

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Witness List. Part I.

Graham v Pemberton (s.o. to amend Pleadings)
Merritt v Merritt & Thatcher Ltd (s.o. for King's Bench action)
Arnott v Edwards
Engel v Leslie Hobbs Ltd
Cousins v The Motor Petrol Assn Ltd
Burrows v Pettit
Cogger v Chavasse
Rogers v Parker
Berg v West
Knott v Marshall
Essex Radio Supplies Ltd v Reich
Baines v Baines
Soddy v Petre
Newill v Clun Assessment Committee
Swindell v Ardern
Lucas Scudamore v Lucas-Scudamore
King v The Cheshunt Perm Benefit Bldg Socy
Shawnell Consolidated Ltd v Brame
W Macqueen & Co Ltd v "Mens Wear" Publishing Co Ltd
Phillips v Phillips
Busby Trust Estate Ltd v Jones (E W)
Hill v Percy Bennett & Co Ltd
Hastings v Fisher
British Ratin Co Ltd v Jones
Clark v Timms
Schilling v Paragon Insce Co Ltd
Re Entwistle & Kenyon Ltd's Agreement Spurrell v The Company—with witnesses
Penrice v Westminster Bank Ltd
J W Stevens (Morden) Ltd v Stevens
Roberts Numbering Machine Co v Davis
Cawood v Cawood
Witt v O'Flanagan
Attorney-General v Gravesend Corpn
Re Scott-Forbes, an Infant Re Guardianship of Infants Acts 1886 to 1925—with witnesses
Gotelee v Strauss
Waterton v Brompton
Re Lascelles Dodd v Mallison—with witnesses
Cantouris v Metaxas
Augusts Ltd v Rolff
Smith v Ebden
Alton-Nagel v Powell
Re Graves Hier-Evans v L'Estrange
Barnes v Hargreaves
Salisbury v Collyear
Colebrook v Welstead
Elce v Smith
F W Woolworth & Co Ltd v Lambert

HIGH COURT OF JUSTICE.
CHANCERY DIVISION.
(In Bankruptcy).

APPEALS AND MOTIONS IN BANKRUPTCY.

Pending September 20th, 1935.

APPEALS FROM COUNTY COURTS.

To be heard by a DIVISIONAL COURT sitting in Bankruptcy.

Re a Debtor (No. 13 of 1935) Exparte the Debtor v The Petitioning Creditors and the Official Receiver Appeal from the County Court of Kent (Canterbury)
Re a Debtor (No. 57 of 1935) Exparte the Debtor v The Petitioning Creditor Appeal from the County Court of Surrey (Croydon)
Re Simpson, F G Exparte Alfred Skelt (practising as J Howard Smith and Skelt) v The Trustee Appeal from the County Court of Surrey (Croydon)
Re a Debtor (No. 41 of 1935) Exparte the Debtor v the Petitioning Creditor and the Official Receiver Appeal from the County Court of Warwickshire (Birmingham)
Re a Debtor (No. 11 of 1935) Exparte the Debtors v the Petitioning Creditors and the Official Receiver Appeal from the County Court of Oxfordshire (Oxford)
Re a Debtor (No. 24 of 1935) Exparte the Petition Creditors v the Debtor Appeal from the County Court of Essex (Chelmsford)

MOTIONS IN BANKRUPTCY.

For hearing before the Judge.

Re Berger, H A E Exparte Franz Hermann Adolph Berger, Emma Mercy Berger (married woman) and Margaret Anna Berger (spinster) v Ebenezer Henry Hawkins and William Henry Cork
Re Sargeant, D Exparte Marion Susan Campbell (spinster) v the Trustee in the 1934 Bankruptcy and Stephen Richard Dean, sole partner of Randolph and Dean
Re Marchant, S Exparte the Trustee v S Marchant Ltd
Re Schlesinger, W F Exparte the Trustee v Aco Ltd

KING'S BENCH DIVISION.

CROWN PAPER—For Argument.

Waller v Architects Registration Council of the United Kingdom
The King v Special Commrs of Income Tax (exparte Elmhurst)
Derbyshire County Council v Middlesex County Council
Norris & Co (Builders) Ltd v Surrey County Council
Vann v Eatough
Hornchurch U D C v Standen
Westminster City Council v Regent Premier Sites Ltd
Huggett v Shoreham Shipping and Coal Co Ltd
L P T Board v Sumner
Bees v Howcroft
Bees v Edwards
Stone v Horton
Jutson v Barron
Duncan v Jones
Kaye v Ealing Corporation
Adams v Baldwin
Marshall v Holmes
The King v Swansea Corporation (exparte Hughes)
Smith v Hall
Robey v Vladinier
Lister v Warne
Lister v Abson
Brown v Thorley
Evans v Southdown Motor Services Ltd
Price v Perry
Jones v Surbiton U D C
County Council of the Administrative County of Nottingham v County Council of the Administrative County of Middlesex
The King v J Powers, Esq and ors, Jjs for Leicester (exparte Walker)
H Cox & Sons Ltd v Sidery
Myers v Walker
Ashby v Hancock
Owner of SS "Tilly" L M Russ v White Sea Timber Trust
de Keyser v Harris
Same v British Railway Traffic and Electric Co Ltd
The King v Trought, Esq and anr, Jjs for the City of Birmingham (exparte Burnett)
Sunderland v Robinson
James v Cloke
Fairbrother v Daek
Stevenson v Fulton
Meredith v Jones
Matchus v Matchus
Weeks v The Dental Board of the United Kingdom and anr
Ankers v Bartlett
Bevan v Philpott
Fillingham and ors v Hall
Doig v Daley
The King v G W Eustace, Esq and ors, Jjs for Sussex (exparte Bowker)
B U F Trust Ltd v Dunster
Baldwin v Sitdown
Pawson v Dance
The County Council of the West Riding of Yorkshire v The County Borough Council of Barrow-in-Furness
Crescent Navigation Co Ltd v Sojus-Naptha Export of Moscow
The Mayor of the Metropolitan Borough of Stepney v Harris
Coles v Odhams Press Ltd and anr
Peacock v Gyproc Products Ltd
Same v Same
Gourley v Trico-Folberth Ltd
Same v same
The King v Recorder of Liverpool (exparte Trustees of Watt, dec)
The King v Keepers of the Peace and Jjs for Kent (exparte Commr of Metropolitan Police)
The King v Keepers of the Peace and Jjs for Kent (exparte Commr of Metropolitan Police)
Roberts v Dolby
Usher v Dolby
F W Woolworth & Co Ltd v Pottier
Woodley v Kelsey
Same v Same
Same v Same
The King v H P Carter, Esq and ors, Jjs for Parts of Holland Lincolnshire (exparte Greetham)
Slaughter v Natl Union of Distributive and Allied Workers Insce Soc Approved Soc
Stokes v Neale
Pontypool R D C v Cowles
L C C v Royal Arsenal Co-operative Soc Ltd
The King v Traffic Commrs for Metropolitan Traffic Area (exparte Phillipsons Motor Coaches Ltd)
Aird v Mitchell
Watkins v Assessment Committee for Herefordshire
Robinson Bros (Brewers) Ltd v Assessment Committee for the No 7 or Houghton and Chester-le-Street Assessment Area
L C C v Stansell
Lowe v Cooper
Bradley v Wilkinson Sword Co Ltd

Owens v Shaw
Jacks & Co v Pollak
Williams v Assessment Committee for Neath Assessment Area
Clarke v Churchill
Mayor, etc of Shoreditch v Collins

CIVIL PAPER—For Hearing.

Fried Krupp Aktiengesellschaft v Orconera Iron Ore Co Ltd
Last and anr v Cork and anr
Perry (Judgment Creditor) v Mitchell Shipping and Transport Ltd (Judgment Debtors) (National Bank Ltd, Garnishees)
Viktoria A/S v W B Thompson & Co (Boxboards) Ltd and anr
Same v Same
Champion Sparking Plug Co Ltd v Commrs of Customs and Excise
Ashby Warner & Co Ltd v Simmons
Eustace Miles Foods Ltd v Moy Davies Smith Vandervell & Co

MOTIONS FOR JUDGMENT.

Nikolas Ltd v Todd
Dodd v Willmott

SPECIAL PAPER.

Arnold v Cohen
Alfred Rowntree & Sons Ltd v Fredk Allen & Sons (Poplar) Ltd
Amos v Hops Marketing Board
Balkans and Near East Shipping Agency v United Shipping Agencies (To Commercial List—fixed Nov 6 1935)
Shamash v Hougi
Goddard v Roake Osakeyhtiö (To Commercial List—fixed for Nov 13 1935)
Banister v Hops Marketing Board

APPEALS UNDER THE HOUSING ACTS, 1925 AND 1930.

Birmingham Housing Compulsory Order 1934 (Application of S Hutton)
Nottingham (St James St No 3B) Compulsory Purchase Order 1934 (Application of J. Marriott)
Nottingham (Montford St Area) Clearance Order 1934 (Application of A E Joyce)
Nottingham (Sneinton Area No 6) Clearance Order 1934 (Application of A E Joyce)
Nottingham (Montford St Area) Clearance Order 1934 (Application of A Whitworth)
London County Council (Nigel Buildings, Camberwell) Clearance Act 1934 (Application of H Himmelschein and P Brunner)
Liverpool (Portland St No 2) Housing Confirmation Order 1935 (Application of T A Morris)
Wrexham Rural (No 15) Clearance Order 1934 (Application of J J Cubbidge)
Wrexham Rural (No 20) Clearance Order 1934 (Application of J Farmer)
Coventry Munition Cottages No 7 Order 1935 (Application of F H Clark)
Coventry Munition Cottages No 7 Order 1935 (Application of E A Bagnall)

REVENUE PAPER—Cases Stated.

Compagnie Air Union and R B Wilson (H M Inspector of Taxes)
Sir James B Henderson and B Archer (H M Inspector of Taxes)
Hailwood & Ackroyd Ltd and J Frame (H M Inspector of Taxes)
Same v Same
Commissioners of Inland Revenue and The Midland Railway Co of Western Australia Ltd The Midland Railway Co of Western Australia Ltd and Commissioners of Inland Revenue
W de Burgh Whyte and J M Clancy (H M Inspector of Taxes)
H A Titcomb and J M Clancy (H M Inspector of Taxes)
Sir Thomas D Barlow, K B E and The Commissioners of Inland Revenue
T W Woodhouse and The Commissioners of Inland Revenue
J P Hughes (H M Inspector of Taxes and The Bank of New Zealand The Bank of New Zealand and J P Hughes (H M Inspector of Taxes)
The Bank of New Zealand and J P Hughes (H M Inspector of Taxes) J P Hughes (H M Inspector of Taxes) and The Bank of New Zealand
P Carter (H M Inspector of Taxes) and Mrs Louise Tevis Sharon
Maurice Kliman (H M Inspector of Taxes) and B Stone
The Executors of Arthur Marshall, dec, the Executors of E W Hood, dec and Louis James Rogers and R R Joly (H M Inspector of Taxes)

LICENSING CONSOLIDATION ACT, 1910—Petition.

Peter Walker & Son (Warrington & Burton) Ltd and Henry Butler and Commissioners of Inland Revenue

FINANCE (1909–10) ACT, 1910—Petition.

The Commissioners of Inland Revenue and The Executors of the Third Lord Hatherton dec and Lord Hatherton

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The following days and places have been fixed for holding the Autumn Assizes on the Northern and Western Circuits: Northern Circuit, Mr. Justice Greaves-Lord and Mr. Justice Hilbery: Tuesday, 8th October, at Carlisle; Monday, 14th October, at Lancaster; Monday, 21st October, at Liverpool; Wednesday, 13th November, at Manchester. Western Circuit, Mr. Justice Finlay: Tuesday, 8th October, at Devizes; Friday, 11th October, at Dorchester; Wednesday, 16th October, at Taunton; Monday, 21st October, at Bodmin; Friday, 25th October, at Exeter. Mr. Justice Finlay and Mr. Justice Singleton: Tuesday, 5th November, at Bristol Mr. Justice Finlay: Thursday, 14th November, at Winchester.

A revised edition of the handbook entitled "The City and Port of Hull" has been issued by the Development Committee of that city. This handbook deals comprehensively with the manifold activities of Hull and the information given throughout is up to date and reliable. The various articles show how the success of the important and varied Hull industries is linked up with the facilities provided by the port. The excellent scope for trade and commerce is shown by the many new establishments described and illustrated. Some of the new industries are established in Hull as a result of decentralisation, the firms concerned having realised that a concentration on one centre of production and distribution is not necessarily the most efficient and economical arrangement. Copies of this interesting publication may be obtained from the Town Clerk, Guildhall, Hull.

The charter of incorporation elevating Beckenham to the dignity of a municipal borough was handed over on Thursday, 26th September, to the Charter Mayor, Sir Josiah Stamp, by the Lord Mayor of London.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 10th October, 1935.

	Div. Months.	Middle Price 2 Oct. 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	111	3 12 1	3 5 4
Consols 2½%	JAJO	81	3 1 9	—
War Loan 3½% 1952 or after	JD	102½	3 8 4	3 6 2
Funding 4% Loan 1960-90	MN	112xd	3 11 5	3 5 9
Funding 3% Loan 1959-69	AO	98⅝	3 0 9	3 1 2
Victory 4% Loan Av. life 23 years	MS	111	3 12 1	3 6 2
Conversion 5% Loan 1944-64	MN	116xd	4 6 2	2 15 0
Conversion 4½% Loan 1940-44	JJ	109	4 2 7	2 14 0
Conversion 3½% Loan 1961 or after	AO	102	3 8 8	3 7 7
Conversion 3% Loan 1948-53	MS	101½	2 19 1	2 17 0
Conversion 2½% Loan 1944-49	AO	98½	2 10 9	2 12 9
Local Loans 3% Stock 1912 or after	JAJO	90½	3 6 4	—
Bank Stock	AO	351xd	3 8 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	84	3 5 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	92	3 5 3	—
India 4½% 1950-55	MN	110½	4 1 5	3 11 8
India 3½% 1931 or after	JAJO	92	3 16 1	—
India 3% 1948 or after	JAJO	78½	3 16 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 4
Sudan 4% 1974 Red. in part after 1950	MN	113	3 10 10	2 18 3
Tanganyika 4% Guaranteed 1951-71	FA	111	3 12 1	3 1 5
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109	4 2 7	2 17 0
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	105	3 16 2	3 12 10
*Australia (C'mm'nw'th) 3½% 1948-53	JD	101	3 14 3	3 13 0
Canada 4% 1953-58	MS	104	3 16 11	3 13 10
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	99	3 10 8	3 11 9
*New Zealand 3% 1945	AO	99	3 0 7	3 2 6
Nigeria 4% 1963	AO	111	3 12 1	3 7 9
*Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	105	3 6 8	3 2 8
*Victoria 3½% 1929-49	AO	99	3 10 8	3 11 10
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	93	3 4 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	105	3 6 8	3 2 4
Leeds 3% 1927 or after	JJ	92	3 5 3	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	103	3 8 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	79	3 3 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	91	3 5 11	—
Manchester 3% 1941 or after	FA	93	3 4 6	—
Metropolitan Consd. 2½% 1920-49	MJSD	97½	2 11 3	2 14 4
Metropolitan Water Board 3% "A" 1963-2003	AO	95	3 3 2	3 3 8
Do. do. 3% "B" 1934-2003	MS	94	3 3 10	3 4 4
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 7
Middlesex County Council 4% 1952-72	MN	111½xd	3 11 9	3 2 4
Do. do. 4½% 1950-70	MN	111½xd	4 0 9	3 10 0
Nottingham 3% Irredeemable	MN	91xd	3 5 11	—
Sheffield Corp. 3½% 1968	JJ	103	3 8 0	3 7 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	109½	3 13 1	—
Gt. Western Rly. 4½% Debenture	JJ	119½	3 15 4	—
Gt. Western Rly. 5% Debenture	JJ	132½	3 15 6	—
Gt. Western Rly. 5% Rent Charge	FA	129½	3 17 3	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	122½	4 1 8	—
Gt. Western Rly. 5% Preference	MA	110½	4 10 6	—
Southern Rly. 4% Debenture	JJ	108½	3 13 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	108½	3 13 9	3 10 1
Southern Rly. 5% Guaranteed	MA	123½	4 1 0	—
Southern Rly. 5% Preference	MA	110½	4 10 6	—

*Not available to Trustees over par.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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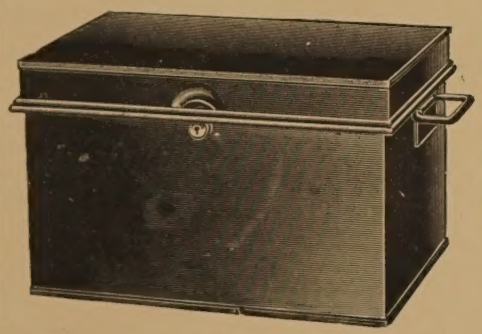

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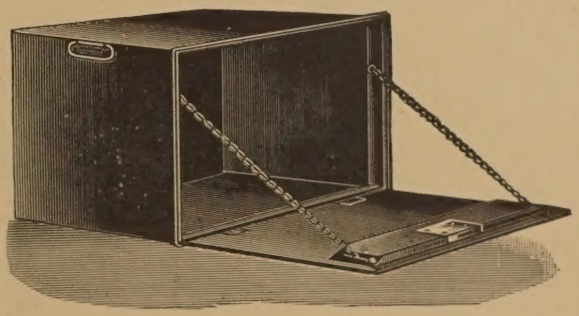

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